

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 UNITED STATES OF AMERICA, )

4 Plaintiff, )

5 v. )

6 PIROUZ SEDAGHATY, et al., )

7 Defendants. )

) No. 05-60008-2-HO

) August 31, 2010

) Eugene, Oregon

8  
9 PARTIAL TRANSCRIPT OF TRIAL PROCEEDINGS

10 BEFORE THE HONORABLE MICHAEL R. HOGAN

11 UNITED STATES DISTRICT COURT JUDGE, AND A JURY

12 DAY 2 A.M. SESSION - PAGES 1 - 122

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1 (Tuesday, August 31, 2010; 9:06 a.m. Jury absent.)

2 P R O C E E D I N G S

3 THE COURT: Be seated, please. Please seat the  
4 jury.

5 MR. WAX: Your Honor, we do have the Sui matter  
6 pending. And in terms of the logistics of that, we  
7 would hope to be able to take that up sometime this  
8 morning.

9 THE COURT: To take which up?

10 MR. WAX: The matter of the witness Sui in  
11 China.

12 THE COURT: And what else? Is that it?

13 MR. WAX: That was the issue that I mentioned.  
14 I'm sorry, Your Honor, we also still have pending before  
15 Mr. Kohlmann, the SW-1 and the EK exhibits, the videos,  
16 and their translation issues.

17 THE COURT: Okay.

18 (Jury enters the courtroom at 9:08 a.m.)

19 THE COURT: Good morning, Jurors.

20 Call your first witness, please.

21 MR. CARDANI: Thank you, Your Honor. The  
22 government calls Linda Czemerys.

23 THE CLERK: Please step forward to the center  
24 of the courtroom. Please raise your right hand.

25 (The witness was sworn.)

1 THE CLERK: Please take the witness stand and  
2 please watch your step. Your microphones are the two  
3 buttons along here, so if you would watch your paperwork  
4 along here.

5 THE WITNESS: Okay.

6 THE CLERK: There is water here. Let me get  
7 you a glass.

8 THE WITNESS: There is some here.

9 THE CLERK: Thank you. Would you please state  
10 your name for the record, spelling your last name.

11 THE WITNESS: Linda Czemerys, C-Z-E-M-E-R-Y-S.

12 DIRECT EXAMINATION

13 BY MR. CARDANI:

14 Q. Good morning.

15 A. Good morning.

16 Q. What is your occupation?

17 A. Right now I am a supervisory special agent for  
18 the Boise, Idaho, office.

19 Q. Of what?

20 A. Of the -- I'm sorry -- IRS Criminal Division.

21 Q. Okay. Internal Revenue Service's Criminal  
22 Investigation Division. And you are a supervisor in  
23 Boise?

24 A. That's correct.

25 Q. Okay. How long have you been with the IRS?

1 A. I've been with the IRS for 26 years.

2 Q. Were you working on the morning of February 18,  
3 2004?

4 A. Yes, I was.

5 Q. And what did you do that morning?

6 A. That morning, we executed a search warrant in  
7 Ashland, Oregon. One of my responsibilities at that  
8 warrant was the seizing officer.

9 Q. What's the address of the building?

10 A. 3800 South Highway 99, Ashland, Oregon.

11 Q. Prior to executing the search warrant, did you  
12 have an opportunity to review and discuss what items  
13 were relevant to the search warrant?

14 A. Yes.

15 Q. Were there a number of agents that participated  
16 in this warrant?

17 A. Yes, there was approximately 17 agents.

18 Q. Is that custom in a search warrant of -- for  
19 IRS of a business?

20 A. Yes.

21 Q. What time of day was the warrant served?

22 A. The warrant was served at 7:55 a.m. that  
23 morning.

24 Q. All right. You said that your role was what,  
25 seizing?

1 A. I was the seizing officer.

2 Q. All right. What does a seizing officer do?

3 A. What the seizing officer does is make sure that  
4 the evidence that is being seized at the site is  
5 seizable per Attachment B part of the affidavit with a  
6 list of items to be seized. So I make sure that when  
7 the agents find something, they leave it there in place,  
8 I look at it, they photograph it, they bring it up to  
9 the table, it's logged in, and then it's bagged. What  
10 we call bagged and tagged, and then put in a box.

11 Q. Are you the case agent in this investigation?

12 A. No, I am not.

13 Q. Who is the case agent?

14 A. Special Agent Colleen Anderson.

15 Q. Was she present at the warrant as well?

16 A. Yes, she was.

17 Q. And was she there to be able to consult with  
18 concerning items within the scope of the warrant?

19 A. Yes, she was.

20 Q. I'd like to show the witness SW-66, please.

21 Agent Czemerys, can you identify the picture in SW-66?

22 A. Yes. That is the residence where we executed  
23 the search warrant. That photo is also attached to the  
24 affidavit.

25 Q. Can you describe the premises.

1           A.       The premises was a single level house with a  
2       basement underneath. And it's approximately over  
3       4000 square feet, on some acreage.

4           Q.       And I'd like to next show you SW-64, a picture  
5       of that same building in the upper left-hand corner.

6           A.       Yes.

7           Q.       Have you had an opportunity prior to coming  
8       into court to examine SW-64 to determine whether it's a  
9       fair depiction roughly of the internal premises of the  
10      al-Haramain building?

11          A.       Yes, I have.

12          Q.       Is it?

13          A.       Yes, it is.

14          Q.       Let's go to the second page first. This was a  
15      multistory building.

16          A.       Correct.

17          Q.       Is this the upper level? Can you describe  
18      generally the premises of the upper level.

19          A.       Yes. As you walk in the front door, there was  
20      a living room, quite a large living room, on the  
21      right-hand side. Left-hand side was an open room that  
22      appeared to be the prayer room. There was the kitchen  
23      attached to the living room. And as you went further  
24      down to the kitchen area, there was an office with  
25      several smaller rooms off on the right-hand side there.



1 And on the left-hand side, there were several bedrooms  
2 and a bathroom.

3 Q. All right. Now, there is references to -- if  
4 we go to the living room, we see Seda 1 and 2 computer  
5 tower bar code. Can you explain that reference?

6 A. That is where a computer was found in the  
7 living room on the floor. Within that computer, there  
8 were two hard drives within the computer tower.

9 Q. All right. Why does it say Seda 1 and 2 on  
10 that?

11 A. That is the names that the computer forensic  
12 person gave to the two hard drives that were found in  
13 that computer.

14 Q. Okay. And you mentioned earlier about  
15 taking -- customary to take pictures and try to document  
16 where evidence was before it's seized.

17 A. Yes.

18 Q. All right. To the best of your knowledge, does  
19 Exhibit 64 fairly depict the location of various  
20 computers that were taken pursuant to the warrant?

21 A. Yes, it does.

22 Q. So room A, if we can go into room A for a  
23 minute on that same diagram, you see a number of other  
24 computer, electronic types of evidence that were taken?

25 A. Yes.

1 Q. We'll come back to upstairs in a few minutes.  
2 But could we go downstairs now. Okay. Please describe  
3 the downstairs of this building.

4 A. Well, there was a downstairs living area, and  
5 then to the front of that was an office, and then you  
6 could go to -- through the office you could go to a  
7 bedroom on the left. And then there was a bedroom on  
8 the right, but you have to enter through another door.  
9 And through that office, you could also enter out the  
10 back onto the back porch there. And then to the left,  
11 there was a kitchen area, and then also it led out into  
12 the garage.

13 Q. Okay. So if we could focus on room X for a  
14 minute. Once again, there are references to computers  
15 6, and then 8 and 9, and 10, do you see that?

16 A. Yes.

17 Q. All right. We have a picture of this room, I  
18 think, later on in this exhibit, the last page of SW-64.  
19 Does this -- are these pictures of room X?

20 A. Yes, they are.

21 Q. Taken the day of the warrant?

22 A. Correct.

23 Q. Okay. And we see some computers there?

24 A. Yes.

25 Q. Okay. Okay. If we go back to the lower level

1 and blow up room X again, please. All right. So,  
2 again, those references to the computer in the upper --  
3 Seda 8 and 9 was a Hewlett-Packard Pavilion computer.  
4 And there are numbers associated with that. Is that  
5 internal record keeping for IRS purposes?

6 A. Yes. Normally they try to write down the  
7 serial numbers on the computers so they are easily  
8 matched to that unit.

9 Q. Again, to the best of your knowledge, does the  
10 location of Seda 8 and 9, and the one down below it,  
11 Seda 6, fairly depict where in room X these computer  
12 hard drives were found?

13 A. Yes, it does.

14 Q. If we go back to -- there we go. Now, Agent  
15 Czemerys, was there anybody present physically when you  
16 and the other agents served the search warrant?

17 A. Yes. When we were getting ready to make entry,  
18 Jonah Sedaghaty was present. He came out. And also  
19 present was his girlfriend.

20 Q. Did they appear to live there?

21 A. Yes, on the bottom floor, yes.

22 Q. And at the time the warrant was served, was  
23 there anybody else present?

24 A. No, there was not.

25 Q. Was the defendant Pirouz Sedaghaty there?

1           A.       No, he was not there.

2           Q.       What's the procedure in terms of seizing  
3 computers when there is a large amount of information on  
4 them?

5           A.       Well, when computers are found at the site,  
6 we -- we always have a computer forensic person who is a  
7 special agent who is special trained to take possession  
8 of the computers. So when we find one, we call them  
9 down. They look at it. They kind of do a -- look at it  
10 to see if there is -- whether they need to image it  
11 right there on site, if they have the time to do that,  
12 or if we just need to take it and then image it at our  
13 office because it's going to take too long.

14                   And at this site, finding as many as we did,  
15 there was no way that they could be imaged on-site. So  
16 he came down, he takes down all the serial information  
17 off the computers, we photograph it in place, and then  
18 he takes possession of those computers.

19           Q.       This was Rick Smith?

20           A.       That's correct.

21           Q.       And what's his role within IRS?

22           A.       Rick Smith is a special agent with the IRS, but  
23 he's our computer specialist, computer forensic person  
24 who examines -- who images the hard drives, and then  
25 examines and takes out the information.

1 Q. To the best of your knowledge, were the  
2 computers referenced in here taken by IRS pursuant to  
3 the warrant, copies made, mirror copies made, and the  
4 originals returned to the owner of the premises?

5 A. That's correct.

6 Q. Now, if we go back to the diagram of the  
7 upstairs, you have -- do you have a file in front of  
8 you, an Exhibit SW-1?

9 A. I don't have those in front of me.

10 Q. All right. I'd ask that the clerk get SW-1.  
11 And before you move on, when you said there were two  
12 people present, did you identify who they were?

13 A. Yes.

14 Q. All right. Who were they?

15 A. It was Jonah Sedaghaty.

16 Q. Who do you understand him to be?

17 A. The son of the defendant.

18 Q. Okay.

19 A. And his girlfriend Christina Kaiser --  
20 Stephanie, excuse me, Stephanie Kaiser.

21 Q. SW-1, do you see that in front of you?

22 A. Yes.

23 Q. What is it?

24 A. It is two videotapes.

25 Q. Okay. Were those taken pursuant to the search

1 warrant?

2 A. Yes, they were.

3 Q. Where were they found?

4 A. They were found in the living room on some  
5 metal shelving.

6 Q. Okay. And in conjunction here, if you point to  
7 your screen, if you could just touch the screen and  
8 roughly show us where those videotapes were found.

9 A. Okay. Can we make it a little bigger? There  
10 we go. They were found right over here in this area.

11 Q. Was there a TV near there?

12 A. No. The TV is over by the fireplace area.  
13 The -- there was a metal shelving, and then there were  
14 sliding glass doors that went out onto the deck.

15 Q. There are two videotapes in SW-1?

16 A. Yes.

17 Q. Did you find other videotapes in that same  
18 vicinity?

19 A. Yes. There were several videotapes in that --  
20 on that shelving area.

21 Q. About how many?

22 A. I would say there is approximately 25 to 30  
23 videotapes in that area.

24 Q. All right. Could you take a look at SW-2 on  
25 the screen.

1 A. (Witness complies.)

2 Q. Can you identify that?

3 A. That is photographs that were found at the  
4 scene that were taken.

5 Q. All right. And SW-3?

6 A. Same, photographs that were taken at the  
7 warrant site.

8 Q. And SW -- does that look familiar as the -- do  
9 you know if that is a picture taken inside the premises  
10 or not?

11 A. Yes. They are inside the kitchen at the search  
12 warrant site.

13 Q. Okay. And those weren't the day of the  
14 warrant, those were just photos found during the  
15 warrant?

16 A. Correct.

17 Q. Likewise SW-4?

18 A. Yes, photos found at the search warrant site.

19 MR. CARDANI: That's all I have. Thank you.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. WAX:

23 Q. Good morning.

24 A. Good morning.

25 Q. Tell me, please, the pronunciation of your

1 name.

2 A. Czemerys.

3 Q. So, Agent Czemerys, this search was conducted  
4 in 2004, correct?

5 A. That's correct.

6 Q. The issues in this indictment involve activity,  
7 as you understand it, in and around the year 2000 in  
8 part, do you understand that to be true?

9 A. I understand that the -- it was an issue with  
10 regards to a 2000 tax return.

11 Q. Okay. In the year 2000, do you know where  
12 Mr. Seda was living?

13 A. I don't have that knowledge, no.

14 Q. Okay. Are you aware that he was at that point  
15 living at Valley View Road, and that this home and  
16 prayer house that you searched was not in use at that  
17 time?

18 A. I'm not aware of that, no.

19 Q. Do you know where the computers that were  
20 seized were located or if they were even present in  
21 their existing configuration in 1999 or 2000?

22 A. I don't have that knowledge, no.

23 Q. In looking at the diagrams that you were just  
24 shown, I believe that they depicted kitchens on both  
25 floors of the building?



1 A. Correct.

2 Q. There are bedrooms on both floors of the  
3 building?

4 A. Correct.

5 Q. You've indicated that the time that you  
6 conducted the search, it was apparent to you that at  
7 least one, if not both, of Mr. Seda's sons were residing  
8 there?

9 A. When we executed the warrant, Jonah Seda was  
10 there with his girlfriend.

11 Q. In looking around the place, I've got a teenage  
12 son, and I don't know what your background is, but did  
13 it appear as though some of the area was in the type of  
14 disarray that one might find with late teenage boys or  
15 early 20-year-old boys living someplace?

16 A. Yes, it was messy.

17 Q. In part, sort of teenagey messy?

18 A. Could be teenagey messy, yes.

19 Q. Okay. With respect to the few photographs that  
20 you indicated were taken during the search, if I recall  
21 correctly, during the course of the search, you found or  
22 observed many hundreds of photographs that you did not  
23 take; is that correct?

24 A. Well, they took a whole box of photographs,  
25 from my recollection, that was down in the downstairs

1 office.

2 Q. Okay. But in terms of that box -- whole box of  
3 photographs that was taken, do you recall that many of  
4 them were family type photographs?

5 A. I don't recall.

6 Q. Do you recall that some of them depicted  
7 activities in and around Ashland, Oregon?

8 A. I don't recall because I did not go through  
9 them.

10 Q. All right. Do you recall that some of them  
11 showed Mr. Seda engaged in his business as an arborist?

12 A. I don't recall that.

13 Q. Do you recall that some of them showed Mr. Seda  
14 engaged in Fourth of July activities in the city of  
15 Ashland?

16 A. I don't recall.

17 Q. But there is no question that there were many,  
18 many, many photographs that were there and the few that  
19 you have just identified are a very small section or  
20 subset of a large collection of photos; is that correct?

21 A. That's correct.

22 Q. Now, with respect to the items that you  
23 observed in the house, in looking through the notes or  
24 reports that were made, I thought I saw that you had  
25 observed a rather lengthy list of book -- books, do you

1 recall that? Did you check your notes -- well, first of  
2 all, do you recall that?

3 A. Like a handwritten list?

4 Q. No, no, a typed inventory type list, many, many  
5 pages of books.

6 A. I don't recall that.

7 Q. Would it help you to look through your notes to  
8 see -- or the notes of the search to see if it was  
9 reported that there was a typewritten list of books that  
10 was observed?

11 A. Was it something that we seized or it was  
12 something --

13 Q. No, it was something that you left.

14 A. Yeah. Can I look real quick?

15 Q. Yes, please.

16 A. I see on my list of photos that were taken that  
17 there was -- there is two items here. Books, then it  
18 says sample of books, and then there is another one  
19 sample of books.

20 Q. All right. Do you recall there being many,  
21 many books in the premises?

22 A. There were several books, yes.

23 Q. Well, it was more than several, wasn't it?  
24 Perhaps thousands?

25 A. I don't remember there being thousands, but I

1 just don't have that recollection.

2 Q. Do you recall there being books on shelves?

3 A. Yes.

4 Q. Do you recall there being books in boxes?

5 A. Yes.

6 Q. Do you recall there being many different books  
7 around?

8 A. Yes.

9 Q. Did you look through all those books?

10 A. No.

11 Q. Do you -- did you seize all those books?

12 A. No.

13 Q. In fact, you seized very few books, is that not  
14 correct?

15 A. That's correct.

16 Q. Do you recall that of the many books that were  
17 there, some had nothing to do with Islam?

18 A. I don't have that knowledge, but it could  
19 probably be true.

20 Q. Do you recall that of the many books that were  
21 there that did involve Islam, many were of a very  
22 moderate nature?

23 A. I don't know that. I didn't read them.

24 Q. Do you recall that there were any number of  
25 Qur'ans in the premises?

1 A. I don't know.

2 Q. Do you recall that of the many Qur'ans that  
3 were there, some had the call to jihad that Mr. Cardani  
4 mentioned in his opening statement and many did not?

5 A. I don't recall that.

6 Q. Did you look through all of the Qur'ans that  
7 were there?

8 A. I did not, no.

9 Q. Did you look through and see if there were, in  
10 addition to the Noble Qur'an, the one that Mr. Cardani  
11 mentioned, there were other Qur'ans?

12 A. I don't recall.

13 Q. I don't know what your faith is, and pardon me  
14 if this question is not one that relates, but are you  
15 familiar with various versions of the Christian Bible,  
16 that there are a number of versions of the Christian  
17 Bible?

18 A. Yes, I'm familiar with that.

19 Q. And are you aware that there are a number of  
20 versions of the Holy Qur'an?

21 A. That, I don't know. I don't have particular  
22 knowledge of that.

23 Q. In the course of the search, you have indicated  
24 you did not make any effort to inventory the many, many  
25 books that were present?

1 A. No. Correct.

2 Q. You did not make an effort to determine how  
3 many of those books might have had a call to jihad in  
4 them and how many did not?

5 A. No.

6 Q. You did not make an effort to determine how  
7 many of those books had nothing to do with religion?

8 A. No.

9 Q. How many of those books were of a completely  
10 moderate mainstream description of Islam?

11 A. No.

12 Q. How many of those books describe a Westernized  
13 view of how Muslims might or might not live in America?

14 MR. CARDANI: Judge, I object at this point,  
15 she doesn't know.

16 THE COURT: Go on to the next, please.

17 MR. WAX: Thank you.

18 BY MR. WAX:

19 Q. With respect to the videotapes, you have  
20 identified these two tapes in front of you. I believe  
21 that you indicated that your recollection is there were  
22 perhaps 25 or 30 tapes on the metal shelves that you  
23 described; is that correct?

24 A. Correct, that's correct.

25 Q. Do you recall that in another place in the

1 building in what might have -- be described as a prayer  
2 room, there was a set of wooden bookshelves, perhaps an  
3 entertainment center, do you recall that?

4 A. I do recall there being an entertainment  
5 center, and there was a TV there, and next to the TV,  
6 there were also several videos in that area.

7 Q. Do you recall there being another 25 or 30  
8 videos in that area?

9 A. Yeah, I think there were probably a few less in  
10 that area, but, yes, there were probably 20 to 25 videos  
11 in that area.

12 Q. Do you recall that in the search, you also  
13 located another, perhaps, 350 videos in two -- I'm not  
14 sure exactly how to describe them. And they sort of  
15 look like storage units, but -- well, first of all, do  
16 you recall there being several green metal structures  
17 that you also searched?

18 A. Yes. There were two what we called trailers  
19 out in the back that were green that were also searched.

20 Q. And do you recall that one of them looked like  
21 it might have been set up as an office with a desk in  
22 it?

23 A. I don't recall that there is a desk in it,  
24 but --

25 MR. WAX: May I have a moment, please, Your

1 Honor?

2 THE COURT: Yes.

3 (Discussion held off the record.)

4 MR. WAX: Your Honor, I'm not sure how you want  
5 to handle this. We have marked one of the photographs  
6 that I would like to show the witness.

7 THE COURT: The clerk will assist you.

8 MR. WAX: I have it electronically. I'm not  
9 sure that I have it in hard copy. So if we can show it  
10 just to the witness, please.

11 THE COURT: Has it been received?

12 MR. WAX: It has not. I was not aware that I  
13 would need to show it to refresh her recollection, which  
14 is what I would need to do right now. I have a hard  
15 copy, I believe, that I can show to the witness if that  
16 would be easier at this point.

17 THE COURT: Yes. Please give it a number.

18 MR. WAX: We have this marked for  
19 identification as Exhibit 1034.

20 THE COURT: Thank you.

21 BY MR. WAX:

22 Q. Do you have 1034 in front of you now?

23 A. Yes, I do.

24 Q. Is that one of the photographs that was taken  
25 during the course of the search provided to the



1 government, which the government then provided to us?

2 A. Yes.

3 MR. WAX: I would offer that exhibit, Your  
4 Honor.

5 MR. CARDANI: Can we identify what it is?  
6 Where it was taken from? Just in aid of objection, I'm  
7 not going to object to this, I just want to know where  
8 it was taken from.

9 THE COURT: Do you know where it was taken  
10 from?

11 THE WITNESS: Yes. It appears to be one of the  
12 trailers. I have all the photos here, to see if I have  
13 the exact same one, if that's okay.

14 MR. CARDANI: One of the trailers, no  
15 objection.

16 THE COURT: It's received.

17 BY MR. WAX:

18 Q. Do you also recall in the trailers there being  
19 perhaps another 350 videotapes?

20 A. Yes. We took several boxes of videotapes out  
21 of the trailer.

22 Q. Did you go through those videotapes?

23 A. I did not go through them.

24 Q. Do you know whether some of them are copies of  
25 news stories from CNN?

1 A. I don't have that knowledge, no.

2 Q. Do you know whether some of them are copies of  
3 new stories from the History Channel?

4 A. I do not know. I didn't look at them.

5 Q. You didn't look at them at all?

6 A. No.

7 Q. Do you recall that among the items that you  
8 saw, there was a box -- there were several boxes that  
9 had a label on them called "Pete's cloth" or "Pete's  
10 tapes" or things of that nature?

11 A. I do recall there were several boxes that said  
12 "Pete's clothes," I thought.

13 Q. Do you recall a box that said "Pete's tapes"?

14 A. As I recall when I looked through my photos,  
15 the majority of the boxes said "tapes" on them. Whether  
16 they said "Pete's tapes" on them, I don't recollect  
17 that.

18 MR. WAX: Your Honor, could we show the witness  
19 an item we've had marked as Exhibit 1047 for  
20 identification.

21 THE COURT: Yes.

22 BY MR. WAX:

23 Q. Do you have 1047 in front of you?

24 A. Yes, I do.

25 Q. Do you recall boxes of that nature being

1 observed, having the photograph taken, or seeing the  
2 photograph?

3 A. Yes, I do.

4 Q. Does that refresh your recollection that there  
5 was a box that was identified as "Pete's" something and  
6 then the word "tapes" on it?

7 A. Yes, I do.

8 Q. All right. With respect to the house and the  
9 living arrangements in the house, do you have any  
10 knowledge of the number of people who might have lived  
11 there, whether on a prolonged basis or a temporary  
12 basis, from the time that Mr. Seda first moved in until  
13 the time of the search?

14 A. No, I do not.

15 Q. Do you have any knowledge of the number of  
16 people who might have brought books or tapes or other  
17 literature into the premises?

18 A. No, I do not.

19 Q. Do you know -- have any idea how many people or  
20 which people would have access to or used what computers  
21 at what different times?

22 A. No, I do not.

23 MR. WAX: Thank you. I have no further  
24 questions.

25 THE COURT: Redirect.

1 REDIRECT EXAMINATION

2 BY MR. CARDANI:

3 Q. Mr. Wax asked you about whether you were aware  
4 of all this other material that was in the building.  
5 Were you part of the actual searching team looking for  
6 items pursuant to the warrant?

7 A. No.

8 Q. What was your role?

9 A. My role was a seizing officer, to make sure  
10 whatever the searching team found fit into the items to  
11 be seized, and then to take possession of it.

12 Q. I'm sorry?

13 A. And then to take possession of it and get it  
14 logged in.

15 Q. So others are out there, looking for items,  
16 they bring them to you, you compare it to the warrant,  
17 right?

18 A. That's correct, that's correct.

19 Q. And Special Agent Anderson is there for  
20 guidance as well?

21 A. Yes.

22 Q. And the mindset is, is this within the scope of  
23 the warrant?

24 A. That's correct.

25 Q. Okay. Now, Mr. Wax asked you about green

1 trailers. So how many trailers were on the premises, if  
2 you know?

3 A. There were two trailers on the back of the  
4 premises.

5 Q. All right. And if we could bring up SW-66. Do  
6 you know the acreage of the property, roughly?

7 A. Roughly, as I recall, I thought it was at least  
8 on a couple of acres.

9 Q. Okay. Now, where, in connection with this  
10 picture, were the trailers, can you point?

11 A. Well, you can't -- they are kind of behind the  
12 house. If you go around the right corner, they are  
13 right back there.

14 Q. Okay. And how far were they from the house,  
15 roughly?

16 A. Roughly, I'm really not good with measurements,  
17 but like -- they were like from me to that white board,  
18 so they were very close to the residence.

19 Q. Are you aware of other items that were found in  
20 the green trailers?

21 A. Yes, I am.

22 Q. Are you aware of whether there were firearms in  
23 the green trailers?

24 A. Yes, there were.

25 Q. Do you know about how many firearms were in the

1 green trailers?

2 A. We found approximately ten firearms.

3 MR. WAX: Your Honor, I object on grounds of  
4 relevance, and it's beyond the scope of anything that  
5 was asked.

6 THE COURT: Mr. Cardani.

7 MR. CARDANI: I think it's directly related to  
8 the cross-examination talking about the nature of  
9 Pete's -- the defendant's --

10 THE COURT: Overruled. Go ahead.

11 BY MR. CARDANI:

12 Q. Are you aware of the number and type of  
13 firearms that were found in the green trailers?

14 A. There were ten firearms found in the green  
15 trailers.

16 Q. Did they include a 9-millimeter semiautomatic  
17 pistol, Glock?

18 A. Yes.

19 Q. With fully loaded magazines?

20 A. Yes.

21 Q. Did it include another 9-millimeter  
22 semiautomatic pistol?

23 A. Yes.

24 Q. With three pre-band fully loaded magazines?

25 A. Yes.

1 Q. And two more of those same weapons?

2 A. Yes.

3 Q. .44 Magnum revolver?

4 A. Correct.

5 Q. .22 semiautomatic pistol?

6 A. Yes.

7 Q. Ruger P89, two fully loaded magazines?

8 A. Yes.

9 Q. 12-gauge shotgun?

10 A. Yes.

11 Q. Ruger .22 carbine?

12 A. Yes.

13 Q. With a scope?

14 A. Yes.

15 Q. And another .22 carbine?

16 A. Yes.

17 Q. Now, were those taken?

18 A. No, they were not.

19 Q. Why not?

20 A. They were not within the scope of the items to  
21 be seized.

22 Q. But documents -- the weapons were inventoried,  
23 nevertheless?

24 A. They were inventoried and photographed,  
25 correct. I shouldn't really say inventoried. We wrote

1 down the weapons and the serial numbers, but we did not  
2 seize them.

3 MR. CARDANI: That's all I have.

4 RECROSS-EXAMINATION

5 BY MR. WAX:

6 Q. Are you aware that all those weapons were  
7 lawfully possessed?

8 A. I did not have direct knowledge of that, but I  
9 believe we had somebody from ATF run their serial  
10 numbers.

11 Q. And you learned that they were all lawfully  
12 possessed?

13 A. Correct.

14 Q. So it wasn't just that they were not within the  
15 scope of the warrant, there was nothing illegal about  
16 them, the handguns or the long guns, correct?

17 A. I believe that's correct.

18 Q. You also don't have any personal knowledge  
19 about whether or not they were all owned by Mr. Seda?

20 A. I do not know that, no.

21 Q. And you've indicated that Mr. Seda was not  
22 present at the time of the search?

23 A. That's correct.

24 MR. WAX: Thank you.

25 MR. CARDANI: No further.



1 THE COURT: You may step down. Call your next  
2 witness, please.

3 MR. CARDANI: Jeremy Christianson.

4 MR. WAX: Your Honor, I don't believe I offered  
5 the second exhibit. I would do so now.

6 MR. CARDANI: No objection.

7 THE COURT: Received, 1047. Thank you.

8 MR. WAX: Could we show both of those to the  
9 jury? I'm not sure if they were shown to the jury  
10 during the testimony.

11 THE COURT: I want to put this witness on the  
12 stand now. You can do that later. Go ahead.

13 MR. WAX: Thank you.

14 THE CLERK: Sir, please step forward and raise  
15 your right hand.

16 (The witness was sworn.)

17 THE CLERK: Thank you. Please step forward.  
18 Please watch your step. There is a couple of steps  
19 there. Your microphones are the buttons under here, so  
20 if you would watch your paperwork.

21 Sir, would you please state your full name for  
22 the record, spelling your last name.

23 THE WITNESS: Jeremy William Christianson,  
24 C-H-R-I-S-T-I-A-N-S-O-N.  
25

## 1 DIRECT EXAMINATION

2 BY MR. CARDANI:

3 Q. Good morning, Mr. Christianson.

4 A. Good morning.

5 Q. What do you do for a living?

6 A. I am a computer forensic manager for the United  
7 States Commodities Futures Trading Commission.

8 Q. Where is that?

9 A. That's based out of Washington, D.C.

10 Q. Is that where you live?

11 A. That is where I live.

12 Q. How long have you been doing that?

13 A. I've been doing that for a little over a year  
14 now at that particular agency.

15 Q. What are your duties?

16 A. My duties are I manage operations for the  
17 Commission's Computer Forensics Division.

18 Q. What does the Computer Forensics Division do?

19 A. The Computer Forensics Division is responsible  
20 for the collection and preservation and analysis of  
21 electronic evidence in relation to our cases.

22 Q. And you've been there about a year?

23 A. I've been there about a year, yes.

24 Q. How about before that?

25 A. Before that, I worked for the Internal Revenue

1 Service Criminal Investigation Division.

2 Q. In what capacity?

3 A. I was a senior investigative analyst and  
4 computer forensic examiner.

5 Q. All right. And what were your specific duties  
6 in that capacity?

7 A. My specific duties were to provide support to  
8 the field agents in matters with digital evidence that  
9 they seized in cases.

10 Q. What do you mean by field agents?

11 A. Computer investigative specialists, which are  
12 special agents that specialize in computer forensics and  
13 search and seizures.

14 Q. Okay. Do you -- before that, what did you do?

15 A. Before that I worked for the Air Force Office  
16 of Special Investigations, and I was a computer forensic  
17 examiner there as well.

18 Q. How long?

19 A. For a couple of years.

20 Q. Excuse me?

21 A. For several years.

22 Q. Okay. All right. Now, before we get into the  
23 substance of your testimony, can you explain the  
24 relationship between you, when you were with the IRS,  
25 with you -- were you in Washington, D.C. working?

1 A. Yes, I was based out of Washington, D.C.

2 Q. All right. What was the relationship between  
3 you and the field agents vis-à-vis examining computers?

4 A. My relationship with them was to provide  
5 support primarily when they would encounter technical  
6 challenges of data that they seized. And I would assist  
7 them with the analysis and recovery of data.

8 Q. Have you had training in computer forensics?

9 A. Yes, I have. I have -- over the past eight  
10 years, I've accumulated more than a thousand hours of  
11 training in computer forensics.

12 Q. More than 1000?

13 A. Yes.

14 Q. Have you provided training to others in the  
15 same subjects?

16 A. Yes. I taught at the Federal Law Enforcement  
17 Training Center, and also taught to our local community,  
18 state and local law enforcement as well.

19 Q. Are you certified in this activity?

20 A. There really isn't a certification that I have  
21 to teach. It's just a part of the job that I have.

22 Q. What about certified as an examiner?

23 A. I am certified as an examiner. I have several  
24 certifications. One of which is a certified computer  
25 examiner through the International Society of Forensic

1 Computer Examiners. And also I'm an EnCase certified  
2 examiner, again, which is the software that we use to  
3 conduct our analysis.

4 Q. Now, at some point in time when you were with  
5 the -- still with the Internal Revenue Service, did you  
6 get involved in an attempt to analyze the contents of  
7 certain hard drives seized from 3800 South Highway 99,  
8 Ashland, Oregon?

9 A. Yes.

10 Q. Do you know when that was?

11 A. It was approximately January of 2008.

12 Q. 2008?

13 A. That's correct.

14 Q. Okay. And do you know how many hard drives you  
15 were asked to help examine?

16 A. It was requested that I analyze five hard  
17 drives.

18 MR. CARDANI: If I may have a moment.

19 (Discussion held off the record.)

20 MR. CARDANI: Judge, I'd like to just read a  
21 stipulation at this point with the consent of Mr. Wax.

22 THE COURT: Go ahead.

23 MR. CARDANI: The parties stipulate that in  
24 February of 2004, the United States government obtained  
25 eight computer hard drives from the premises of

1 al-Haramain Ashland in Ashland, Oregon. The government  
2 made mirror images of those hard drives and provided  
3 them to its computer expert, Richard Smith.

4 Mr. Smith subsequently provided the hard drives  
5 to government's computer expert, Jeremy Christianson.  
6 The government's exhibits in the SW series were derived  
7 from those computers.

8 THE COURT: Mr. Wax, do you so stipulate?

9 MR. WAX: Yes, Your Honor.

10 THE COURT: Members of the jury, that means you  
11 are to accept that as facts in the case. Go ahead.

12 BY MR. CARDANI:

13 Q. What does -- the term "mirror" showed up in  
14 that stipulation in terms of the hard drive. Can you  
15 explain that?

16 A. Yes. A mirror copy of a hard drive is simply  
17 an exact copy of a hard drive that we can authenticate  
18 as being an exact copy.

19 Q. So what you were given came from Oregon were  
20 exact copies of basically the guts, the hard drives of  
21 the computers?

22 A. Yes.

23 Q. To the best of your knowledge, were those same  
24 copies provided to the defense?

25 A. Yes.

1 Q. If we could bring up SW-64, please. If we  
2 could go to room X. Now, are you familiar with the  
3 monikers there, Seda 8, 9, 6 and 10?

4 A. Yes.

5 Q. And, Mr. Christianson, were those among the  
6 hard drives that you attempted to analyze?

7 A. Yes.

8 Q. Did you say there were five that you analyzed?

9 A. Five.

10 Q. Do they include all of these?

11 A. They do include all of these.

12 Q. And a couple of others from the upstairs  
13 office?

14 A. Yes, Seda number 7.

15 Q. Now, before attempting to do your work as a  
16 computer forensic expert with IRS, did you talk to  
17 anybody about what you were needed to do?

18 A. I spoke with Special Agent Anderson and Special  
19 Agent Rick Smith, who was the seizing agent for the  
20 digital evidence. He preserved it. And she requested  
21 that I conduct a recovery for documents, financial data  
22 files like QuickBooks and e-mail.

23 Q. Did that help shape the nature of your work  
24 after that?

25 A. It did, yes.

1 Q. Were there any specific requests about any  
2 problems they were having in the field accessing the  
3 contents of the hard drives?

4 A. One of the problems that they had was that  
5 they, utilizing the software that they were using, they  
6 were unable to identify things like e-mail.

7 Q. More specifically about the e-mail that they  
8 were having trouble locating particular e-mails or what?

9 A. They were having trouble locating -- I believe  
10 it was any e-mail at all.

11 Q. Okay. And so did you then conduct an  
12 examination of the computer hard drives?

13 A. I did.

14 Q. How long do you typically spend in analyzing  
15 the contents of a hard drive?

16 A. It's hard to put in an exact time of how long I  
17 actually spend. Each case is unique. But usually data  
18 is readily accessible in -- at least in my experience  
19 with the cases that I've worked on. And it usually  
20 doesn't take a long time for turnaround. I'd say a  
21 couple of weeks to conduct a preliminary examination.

22 Q. And in your four years with IRS, do you have a  
23 rough estimate of how many computer hard drives you were  
24 engaged in analyzing?

25 A. It was a lot.



1 Q. Over 100?

2 A. Not over 100.

3 Q. Less than 100?

4 A. Less than 100 but very close.

5 Q. Now, were you able to access eventually the  
6 information contained in some of the computers?

7 A. Yes, I was.

8 Q. Did it take much work?

9 A. It took a tremendous amount of work.

10 Q. Please, what do you mean by a "tremendous  
11 amount of work"?

12 A. It took a lot of time, so that the data  
13 recovery techniques that I employed to recover the data  
14 were very manual, very time intensive.

15 Q. Why?

16 A. Because of the state of the data. The data  
17 that I recovered existed in what I call residual areas  
18 of the hard drive. It wasn't accessible by a user of  
19 the computer.

20 Q. Can you break that down a little bit, it's not  
21 accessible to a user?

22 A. Sure. If I'm a user of a computer, and I'm  
23 sitting in front of it, and I turn the power on, and  
24 Windows comes up, for example, the files and folders  
25 that I see, that's easily accessible data.

1           When you delete a file, the file is not visible  
2   to you anymore, but it's still on the hard drive until  
3   it's overwritten.

4           So those areas of the hard drive that the user  
5   cannot see or access, there could still be residual data  
6   there.

7       Q.     Can be?

8       A.     Can be.

9       Q.     All right. What does that mean? How do you  
10   know if it's still there or not?

11      A.     It's still there until it's overwritten by new  
12   data, by new files.

13      Q.     How long did you work on these computers? You  
14   said you got them in January of 2008.

15      A.     Again, it's very hard to quantify in hours how  
16   many -- how much time I spent, but it took me several  
17   months, at least upfront, to recover a lot of this data.

18      Q.     And were you working primarily on this?

19      A.     I was working primarily on this, yes.

20      Q.     For months?

21      A.     For months.

22      Q.     In terms of your comparison with your other  
23   work, was this routine?

24           MR. WAX: Objection, Your Honor.

25           MR. CARDANI: For the amount of time.

1 THE COURT: Did you say "was it routine"?

2 MR. CARDANI: Yes, in comparison to the amount  
3 of time compared to working on other projects.

4 THE COURT: The objection is overruled.

5 THE WITNESS: It was -- to spend as much time  
6 as I did simply relates to the volume of information  
7 that I was able to identify and recover. So I spent  
8 more time than usual, yes.

9 BY MR. CARDANI:

10 Q. Have you ever worked on a project as large as  
11 this before?

12 A. This was one of the largest I've worked on.

13 Q. Now, were you able to recover all of the  
14 information from the contents of these hard drives?

15 A. Can you define "all"?

16 Q. Well, specifically you said when something is  
17 deleted, it goes into this unallocated space?

18 A. Yes.

19 Q. And did you spend a lot of time forensically  
20 sifting through the unallocated space?

21 A. Yes, I did.

22 Q. Now, did you find anything in the unallocated  
23 space that led you to conclude that there were other  
24 things there that were gone, that had been overwritten?

25 A. In particular, we used e-mail, for example, the

1 method that I employed to -- very manual method to  
2 recover some of the e-mail, it was incomplete with the  
3 recovery, so I had to employ some tools to actually --  
4 for example, Microsoft Outlook e-mail, I was actually  
5 able to recover an entire mailbox associated to that  
6 program. And I use an analogy -- and, again, this is an  
7 oversimplified analogy -- to a mailbox out in front of a  
8 house that has letters inside.

9 I wasn't only able to recover one of those  
10 letters, I was able to recover the entire mailbox. And  
11 that process, because of the volume of e-mail, took a  
12 very substantial amount of time to recover, and to  
13 repair. And that tells me that it was probably deleted  
14 at some point in time, which I couldn't determine, and I  
15 had to run some repair tools to recover most of the  
16 e-mail.

17 Q. We're going to get into the e-mails, but just  
18 to be clear, you just used an analogy about a missing  
19 mailbox, so when somebody turns on a computer, and looks  
20 for e-mails as a file, Outlook or something like that,  
21 that you would ordinarily look for an e-mail?

22 A. Yes. Microsoft Outlook stores its e-mail in a  
23 single file. It's called a personal storage folder.  
24 And that single is just like a mailbox. All of your  
25 e-mail is inside that one file. And I was able to

1 recover that one file, actually, on several hard drives.

2 Q. From the deleted parts of the computer?

3 A. From the unallocated, nonuser accessible areas  
4 of the hard drive.

5 Q. So when you turn on a computer, it would be,  
6 like, apparent to the user, was there any e-mail system  
7 apparent?

8 A. There wasn't -- Microsoft Outlook was not  
9 apparent on the computers. If I were the one to sit  
10 down and turn it on, Microsoft Outlook was not there.

11 Q. Okay. So the whole mailbox was actually  
12 missing?

13 A. Yes.

14 Q. But you were able to use tools to get into the  
15 deleted portions and find some e-mail?

16 A. Yes.

17 Q. You mentioned the word "repair." What does  
18 that mean?

19 A. Again, if you are using Microsoft Outlook as  
20 your e-mail program, and something happens to your  
21 mailbox, it gets corrupted and you can't open it,  
22 Microsoft has a tool that is specifically made to help  
23 repair that for you so that you can save your e-mail.

24 Q. Now, what was your goal in terms of -- were you  
25 working with Special Agent Anderson quite a bit on this

1 project?

2 A. Yes, I was.

3 Q. Did you talk to her on the phone quite a bit?

4 A. I did quite a bit, yes.

5 Q. All right. What was your goal in rebuilding  
6 these computers, especially the deleted aspects of them?

7 A. My role primarily was to simply be the  
8 technician, to identify and recover the types of data  
9 that Special Agent Anderson identified upfront, and to  
10 reconstruct that into a user accessible form so that she  
11 could review and search the data.

12 Q. And how? How could you search the data then?

13 A. Through different types of software that we  
14 have that allows you to search a large volume of  
15 information, files.

16 Q. Were you ultimately successful?

17 A. I believe so.

18 Q. Okay. But not entirely because there were --  
19 there was material that was entirely overwritten, or do  
20 you know?

21 A. It's hard to determine, but there was a lot of  
22 deleted data on the computers.

23 Q. Did you find any e-mails that were like strings  
24 of text but then just stopped so they are partially --

25 A. There were several, for example, Web pages that

1 used to be on the computer at one point in time and  
2 accessible to a user. You could definitely see that  
3 there were blocks of text for files and stuff of that  
4 type that were not complete.

5 Q. Meaning they were gone?

6 A. Meaning that the likely scenario is that they  
7 were partially overwritten.

8 Q. And if they are partially overwritten, is there  
9 any way at that point for you to recover them?

10 A. No.

11 Q. Gone forever?

12 A. Gone forever.

13 Q. Okay. Now, in preparation for your testimony  
14 today, were you asked to prepare a summary of certain SW  
15 series, search warrant series, of exhibits that came out  
16 of these computers?

17 A. Yes.

18 Q. And is that what's been identified as JC-4?

19 A. Yes.

20 Q. Did you help prepare this?

21 A. Working with Special Agent Anderson, I did help  
22 prepare this.

23 Q. So to the best of your knowledge, does the  
24 information depicted in here accurately show the nature  
25 of the material in the report?

1 A. Yes.

2 Q. Before we bring it up -- okay. If we could  
3 bring up the first page of JC-4. This is titled Summary  
4 Report, Search Warrant Series Deleted Items Recovered  
5 From Seized Al-Haramain Computers. All right. Now that  
6 word "deleted" does that mean -- does that mean that  
7 this is in the unallocated space, not in the apparent  
8 portion of the computers?

9 A. That's correct.

10 Q. All right. Let's talk about the fields first.  
11 We see the exhibit numbers for trial, so the first one  
12 would be SW-5. Do you see that on the first line?

13 A. Yes.

14 Q. And then next to it is a description?

15 A. Yes.

16 Q. E-mail with attachment from Abdul Qaadir dated  
17 such-and-such. Whose description is that?

18 A. Special Agent Anderson.

19 Q. And then the next column is the hard drive?

20 A. That is the evidence item it came from.

21 Q. I'm sorry?

22 A. That's the evidence item that it came from,  
23 yes.

24 Q. Okay. Were a lot of these from Seda 8?

25 A. It appears that way, yes.



1 Q. From room X. And then the "from," "to," and  
2 the "CC," is -- who put -- whose information is that?

3 A. Those are standard fields in an e-mail. So  
4 when e-mails are sent and received, it's who it came  
5 from, who it went to.

6 Q. So that's from the e-mail itself, not from  
7 any --

8 A. Correct, that is --

9 Q. -- government -- I'm sorry?

10 A. That is from the e-mail itself, yes.

11 Q. And the subject line?

12 A. That is from the e-mail.

13 Q. And then the date of e-mail or document on the  
14 right?

15 A. That is also from the e-mail.

16 Q. Did you -- were you asked to do, as best you  
17 could, a chronological list of these search warrant  
18 items?

19 A. Yes. Once the -- this spreadsheet was put  
20 together, you could sort chronologically based on the  
21 data.

22 Q. Okay. But this particular exhibit starts  
23 January 4, 2000, then runs for several pages. And  
24 eventually we take you through September of '01. So  
25 where possible, chronologically?

1 A. Yes.

2 Q. Now, are many of these items depicted recovered  
3 e-mails?

4 A. These are recovered e-mails from what we talked  
5 about earlier of one of those mailbox files.

6 Q. Okay. But you -- there are other types of  
7 information depicted on here as well?

8 A. There is. There are several Web pages and Word  
9 documents.

10 Q. We're having a little trouble hearing you. If  
11 you could move a little closer to the microphone. It's  
12 down there.

13 A. Sure.

14 THE COURT: The mikes are those little silver  
15 buttons in front of you.

16 THE REPORTER: You may slow down, too. I think  
17 that would help.

18 BY MR. CARDANI:

19 Q. She slows me down a lot, too. Now, one thing  
20 before we get into some of these, were you asked to  
21 determine whether it was possible that these e-mails  
22 we're about to get into were spam? Are you familiar  
23 with spam?

24 A. Yes, I am.

25 Q. What's spam?

1           A.       Spam is, for lack of a better definition, junk  
2 mail, things that you don't want, or ads and other  
3 things.

4           Q.       So you can just simply delete it without even  
5 opening it?

6           A.       You could, yes.

7           Q.       And where would it go on the computer if you  
8 did that?

9           A.       If you were using, again, a program like  
10 Microsoft Outlook, there's actually a recycle bin inside  
11 Outlook, so it would simply be in the deleted folder.

12          Q.       Okay. So were you asked to determine whether  
13 these e-mails were of the spam nature?

14          A.       I was.

15          Q.       What was the result of your work?

16          A.       Basically what we determined that these -- the  
17 location of each one of these e-mails, and most of them  
18 were in the in box folder. And I was asked to determine  
19 whether they were read or unread. And we determined  
20 that all of these e-mails in this particular spreadsheet  
21 were marked as read.

22          Q.       Okay. So would that require somebody to  
23 physically open it on a computer?

24          A.       Yes.

25          Q.       Okay. Now, all of these were opened?

1 A. Yes.

2 Q. So, for example, if we could go to page 5 of  
3 this. And then the second line down there,  
4 Mr. Christianson, SW-30, you say that that is -- or  
5 stated that the e-mail to Sheeshaan group dated March 8,  
6 2000, at such-and-such a time containing fatwa from  
7 Jibreen, right?

8 A. Yes.

9 Q. Okay. And then moving over in that field, you  
10 are saying it's from Seda 8, deleted?

11 A. Yes.

12 Q. And then AQ@Yahoo with the address of the  
13 sender?

14 A. Yes.

15 Q. And then to the Sheeshaan eGroups. Now, are  
16 you familiar with the -- if we can go back to the left  
17 just a little bit. Okay. This Sheeshaan eGroups, are  
18 you familiar with that based on this investigation?

19 A. No.

20 Q. All right. Do you know what an eGroup is?

21 A. I do.

22 Q. What's an eGroup?

23 A. An eGroup is simply a group of -- a  
24 distribution list, if you will, for a particular topic  
25 for a particular entity.

1 Q. Did you find a number of e-mails that were  
2 associated with this Sheeshaan eGroups --

3 A. Yes.

4 Q. -- on the computer?

5 A. Yes.

6 Q. And then so if we could bring up the exhibit  
7 itself, SW-30, please. If we look at that first part up  
8 top, is this an example of an e-mail that made its way  
9 into the summary, SW-30?

10 A. Yes.

11 Q. Okay. So there is the address up at the top,  
12 and a date sent, date delivered. And so you took this  
13 information and worked with Agent Anderson and put this  
14 into the JC-4 exhibit?

15 A. Yes.

16 Q. Okay. Can we go to SW-51, please. In addition  
17 to e-mails, did you find other type of information  
18 within the deleted section of the computers?

19 A. Yes, several -- there were quite a bit of  
20 documents and Web pages, for example.

21 Q. What is this?

22 A. This is a Web page.

23 Q. Okay. And what can I do to help the jihad and  
24 mujahideen? Now, this is SW-51. And I see in the last  
25 page of JC-4 -- we don't need to see it right now, keep

1 this up here for a second, but you put the date of the  
2 e-mail or document not applicable in your summary, why  
3 is that?

4 A. When you recover files from unallocated space,  
5 you lose all of that information, the dates, times, and  
6 the source of where it existed, when it was accessible  
7 by the user.

8 Q. But the contents of this in the deleted section  
9 of Seda 8, does this indicate that somebody actually  
10 visited a Web site on this computer?

11 A. It's logical to assume that, yes. At one point  
12 in time, this Web page existed and was accessible to the  
13 user.

14 Q. But then was deleted?

15 A. Yes.

16 Q. Okay. I'm going to ask you about a few other  
17 e-mails and ask you if you did some work forensically  
18 that helps explain some of the e-mail traffic in this.  
19 Could we start with SW-56, please.

20 Are you familiar, Mr. Christianson, with this  
21 exhibit?

22 A. Yes.

23 Q. And did this come from Seda 8?

24 A. Yes.

25 Q. All right. Profile commander of the foreign

1 mujahideen in the Caucasus. And this is a multiple page  
2 exhibit. Could we go to page 6, please. All right.  
3 Could we expand this part right here (indicating).

4 Thank you.

5 Do you see that? It's from this Khattab  
6 interview, Mr. Christianson. Do you need any support?  
7 What support in particular do you need?

8 A. Yes.

9 Q. And then the answer, "The Chechen Republic has  
10 been surrounded from all sides. However, the Russian  
11 Army is prepared to sell everything for a price. As for  
12 previous affairs of the Muslims, one would always find  
13 Islamic charities and organizations present. I'm sorry  
14 to say there is not a single Islamic charity  
15 organization active inside Chechnya at present. Only  
16 the Red Cross is present in Chechen towns and cities.  
17 Therefore, we advise the Muslims in the Muslim countries  
18 to take a sincere stand with the mujahideen in the land  
19 of the Caucasus." Do you see that?

20 A. Yes.

21 Q. Now, can we go to SW-52. Does this -- this  
22 came also from Seda 8, according to page 1 of your  
23 summary?

24 A. Yes.

25 Q. And it's listed here as having been created on

1 January 22, 2000?

2 A. Yes.

3 Q. So tell us about that. How -- what is this?

4 A. This is a recovered Microsoft Word document.

5 And Microsoft Word when you create a new Microsoft Word  
6 document stores internal dates and times. And those  
7 internal dates and times are reflective of when it was  
8 created based on the time zone settings were for Windows  
9 at the time it was created.

10 Q. So this document, is that the entire document?

11 A. That is the entire document.

12 Q. Okay. So someone singled off this particular  
13 question and put it into a Word document?

14 A. It would appear so.

15 Q. And then if we could go -- are you familiar  
16 with the term "cut and paste"?

17 A. I am.

18 Q. Can you go onto a Web site and highlight  
19 material and save it to the Word document?

20 A. You can, yes.

21 Q. That would be a cut and paste?

22 A. Yes.

23 Q. Okay. And the language here is identical to  
24 that other one?

25 A. It was identical, yes.



1 Q. All right. The next exhibit, SW-11, now this  
2 is dated the same day. You said in your summary that  
3 the Word document was created on January 22nd --

4 A. Yes.

5 Q. -- on the computer. This is a new exhibit,  
6 SW-11, which is listed on page 2 of your summary as an  
7 e-mail contained within Seda 6, from P@qf.org. Do you  
8 see that?

9 A. Yes.

10 Q. To al-But'he, right?

11 A. Yes.

12 Q. And then it says "what support"?

13 A. Yes.

14 Q. And that's the subject line?

15 A. That is the subject line.

16 Q. Typically in -- who would have typed "what  
17 support"? Would that have been from the sender of this  
18 e-mail?

19 A. That would have been from the sender, yes.

20 Q. And this same question down below, the verbiage  
21 is identical to the Khattab interview and the Word  
22 document you just talked about?

23 A. It is, yes.

24 Q. Do you know if this was sent?

25 A. It appears that it was sent, yes.

1 Q. And then if we go to SW-36, please. Okay.  
2 Blowing up the first half of that one, SW-36,  
3 Mr. Christianson, does this appear to be an e-mail from  
4 looking at your -- this lists as coming from that same  
5 computer, Seda 6 from room X?

6 A. Yes.

7 Q. Okay. So the same computer listed on your  
8 summary here on page 5, from the same sender, P@qf.org  
9 to Sheeshaan owner at eGroups, dated September 18, 2000.  
10 And down below is Red Commie in red?

11 A. Yes.

12 Q. Now, it's in red. Do you know if that was in  
13 its original form or whether someone from the government  
14 made it red?

15 A. No one from the government made it red. At  
16 least not from the recovery that I did. It is in the  
17 state that it was in when I recovered it.

18 Q. Both in size and color?

19 A. Both in size and color.

20 Q. And then three lines down it says AU?

21 A. Yes.

22 Q. And are you familiar that the defendant's --  
23 one of his names is Abu Yunus?

24 A. Yes, Special Agent Anderson told me that was.

25 Q. And down below it says The Arborist, Ashland,

1 Oregon, Pete Seda, urban forester, certified arborist?

2 A. Yes.

3 Q. So it's a contact with the issuer of Sheeshaan  
4 eGroups?

5 A. Yes.

6 Q. If we could move on to SW-23. If we could just  
7 see who is sending this. Was this also recovered from  
8 the computers?

9 A. Yes.

10 Q. I'm looking at your summary, and you have it  
11 from hard drive Seda 8 in the deleted section?

12 A. Yes.

13 Q. So this is just from soliman@albuthi.com dated  
14 February 23rd of 2000 to Pete?

15 A. Yes.

16 Q. Regarding FBI witch hunt to target Islamic  
17 charities?

18 A. Yes.

19 Q. I'd like to go to the second page of that and  
20 if we could go down towards the bottom. Do you see that  
21 red paragraph?

22 A. Yes.

23 Q. Before getting into the contents of it, it's in  
24 red. And the same question from before. Is -- did  
25 someone put this in red in its original form in the

1 computers?

2 A. It appears that way, yes.

3 Q. Changed the color, but I'm saying you didn't do  
4 it?

5 A. I did not do it.

6 Q. Okay. And to the best of your knowledge, she  
7 didn't do it?

8 A. To the best of my knowledge, she did not do it  
9 either.

10 Q. All right. So if you went in there today and  
11 looked at this computer, you'd find this in red, this  
12 section?

13 A. I would find it exactly the same way, yes.

14 Q. Okay. U.S. officials also said they have  
15 discovered through the massive probe that a significant  
16 number of Islamic terrorists are concealing their  
17 activities and sources of funds by using charitable  
18 organizations as fronts. Since many of these charities  
19 do substantial community service work, investigating  
20 them is not easy and can subject the FBI or foreign law  
21 enforcement authorities to allegations of targeting  
22 religious or ethnic groups, sources said.

23 A. Yes.

24 Q. Okay. If we could go back to page 1 at the top  
25 there. This was sent by someone using the

1 soliman@albuthi address to Pete, and it was found in  
2 this deleted section of Seda 8?

3 A. Yes.

4 Q. A few other things. I'd like to go to SW-8,  
5 please. Mr. Christianson, in addition to a lot of these  
6 e-mails, were there pictures and maps also found in  
7 deleted sections of these hard drives?

8 A. Yes.

9 Q. And does this one here, SW-8 that's before you,  
10 from AQ@Yahoo, Friday, January 14th, news from the  
11 mujahideen in Chechnya, news and photos, and then there  
12 are attachments. What do those refer to before we get  
13 into them?

14 A. Attachments are simply, in this particular  
15 case, pictures that were sent with the e-mail.

16 Q. And there is a thing at the end of these  
17 addresses, JPG, like p4@JPG. What does JPG mean?

18 A. That is a particular type of picture file.

19 Q. J-peg, is that how you guys say it?

20 A. J-peg, yes.

21 Q. That means the picture. All right. And this  
22 is talking about a Russian plane shot down January 2000,  
23 70 Russians killed, 4 vehicles destroyed?

24 A. Yes.

25 Q. And then pictures from operations, see

1 attached. All right. If we could go on to the second  
2 page of this. And I want to go through some of these  
3 pictures. Are these the attachments that were on that  
4 particular e-mail, Mr. Christianson?

5 A. Yes.

6 Q. All right. We just scrolled through all of  
7 those pictures. And those were all the pictures that  
8 were attached as these JPGs to the e-mail?

9 A. Yes.

10 Q. Did you find photos SW-45? Was this found in  
11 the deleted sections of these hard drives?

12 A. Yes.

13 Q. Do you know who these fellas are?

14 A. I don't know specifically, but I was told they  
15 were -- by Special Agent Anderson that these are  
16 pictures of mujahideen fighters.

17 Q. All right. SW-44, that was in the computer?

18 A. Yes.

19 Q. 46. 47. Now, what is this?

20 A. That is a picture.

21 Q. Was it found attached to anything, if you know,  
22 or randomly in the computers?

23 A. That was not an attachment to an e-mail. That  
24 was found on the hard drive as a recovered picture.

25 Q. It was just a JPG photo --

1 A. Yes.

2 Q. -- found on the computer. Okay. 48. Can you  
3 enlarge that a little bit. It's really hard to make out  
4 on this, but do you have any idea what that sign says?

5 A. I do not.

6 Q. Okay. We'll have another witness talk about  
7 that later, but I just wanted to ask you that. Okay.  
8 49. Just another JPG in the computer?

9 A. Yes.

10 Q. And 50, same type of thing?

11 A. Yes.

12 Q. All right. SW-59, this is listed in your  
13 summary as coming also from Seda 8, undated, but a JPG  
14 photo of the map of a battle in Grozny?

15 A. Yes.

16 Q. And the next one, SW-60, also you say comes  
17 from Seda 8 in the deleted section?

18 A. Yes.

19 Q. Titled Mujahideen Tactical Movements Out of  
20 Grozny?

21 A. Yes.

22 Q. And the bottom, mujahideen movement?

23 A. Yes.

24 Q. All right. I'd like to move on to a slightly  
25 different subject now. SW-17, please. Okay. At the

1 top it says Hotmail, Ptichka1@hotmail.com. Do you see  
2 that?

3 A. Yes.

4 Q. So this is on page 2 of your summary, also from  
5 the same hard drive, Seda 8, as -- it says here,  
6 original sent February 6, 2000. So can you describe  
7 what this is?

8 A. This is a -- looks like an e-mail message from  
9 someone with Ptichka1@hotmail.com composing a message  
10 using Web based e-mail, Hotmail.

11 Q. And when you do e-mails like this, it's just  
12 reflected in the computer like this?

13 A. The behavior of Internet Explorer, which is the  
14 Web browser that was used to generate this, was to store  
15 remnants of that particular Web mail on the computer.

16 Q. Okay. And this is to -- regarding the "to"  
17 line here, Qoqaznet@yahoo.co.uk?

18 A. Yes.

19 Q. And regarding translations?

20 A. Yes.

21 Q. And then down below, if we could highlight the  
22 snap -- you've said -- you used the word snapshot  
23 before?

24 A. I did not say snapshot.

25 Q. Oh.



1 A. But essentially that's what this is.

2 Q. Okay. Well, I don't know what I mean by  
3 snapshot. Tell me what this is.

4 A. This is just an -- this is the original portion  
5 as if I was replying to an e-mail, so the original  
6 e-mail thread would be part of that.

7 Q. Okay. And -- okay. So if we go -- this is  
8 from Qoqaz Web site to Ptichka at Hotmail. And, again,  
9 this is coming from Ptichka1 stuff is in the Seda 8?

10 A. Yes.

11 Q. Regarding translation, February 2000, talking  
12 about -- down here, dear sister, the work seems to be  
13 going on well?

14 A. Yes.

15 Q. Okay. So does it appear that somebody was  
16 using this computer to do translations for Qoqaz?

17 MR. WAX: Objection.

18 MR. CARDANI: Well --

19 MR. WAX: I don't know how this witness can  
20 answer that.

21 THE COURT: Yeah. Go on.

22 BY MR. CARDANI:

23 Q. But the subject is "translations"?

24 A. The subject is translations, yes.

25 Q. All right. And it's going in the -- if we

1 could go back to the exhibit, up top, this is someone  
2 communicating with Qoqaznet about translations?

3 A. Yes.

4 Q. Okay. All right. And it was found in the  
5 computers in Ashland, Oregon?

6 A. It was, yes.

7 Q. From someone using this Ptichka address?

8 A. Yes.

9 Q. Now, can we go to SW-61, please. All right.  
10 What's this?

11 A. This is a recovered Web page for a Web site The  
12 PROMT's Online Translator, and this was also again a  
13 recovered Web page.

14 Q. All right. And in the microphone, a little  
15 louder, I'm having trouble.

16 A. This is a recovered Web page for this, what  
17 appears to be an online translation service.

18 Q. Okay. Are you familiar with online  
19 translations services?

20 A. Vaguely.

21 Q. Okay. Do you know if there are services  
22 available online where you can put information in to get  
23 help translating into various language?

24 A. I do know there are some, yes.

25 Q. So we see here the English part of it, "wait

1 until we post the details of the aid organization able  
2 to collect these donations and then send your money to  
3 them. We do not accept or collect donations ourselves  
4 as we are only a news outlet." And then talks about the  
5 mujahideen down below. "Urgent need of doctors, medical  
6 personnel, and medical supplies."

7 A. Yes.

8 Q. Do you see that? And then right below that, it  
9 says English-Russian translation?

10 A. Yes.

11 Q. And then down below -- do you speak Russian?

12 A. I do not.

13 Q. Okay. Have you ever seen Russian before?

14 A. I have seen Russian before.

15 Q. Does this appear to be Russian?

16 A. It appears that way.

17 Q. Okay. Could we go to the overall page and then  
18 highlight down below, too. More of translation stuff?

19 A. Yes.

20 Q. Did you find a number of these types of things  
21 in the computer?

22 A. I did.

23 Q. Seda 8?

24 A. Seda 8, yes.

25 Q. All right. Now, I'd like to move to a

1 different subject, Mr. Christianson. Later on you said  
2 that your job was to put this in a searchable format for  
3 Agent Anderson?

4 A. Yes.

5 Q. Were you able to search, too?

6 A. I was able to search, too, if she requested it,  
7 yes.

8 Q. And can I show you AHIF-2. If we could blow up  
9 that first paragraph. This references an agreement  
10 between Soliman and Abu Yunus about turning all monies  
11 and responsibilities collected for the brothers and  
12 sisters of Chechnya to Brother Soliman. And then  
13 Soliman states he has received monies in the amount of  
14 such-and-such and fully relieves Abu Yunus of all  
15 responsibilities for the monies.

16 A. Yes.

17 Q. Were you asked to do a text search to determine  
18 if these were in any of the computers?

19 A. Yes.

20 Q. And what were the results of that search?

21 A. I did not find this in any of the computer  
22 evidence that I searched.

23 Q. Okay. That references \$186,000, do you see  
24 that?

25 A. Yes.

1 Q. And if you could go a little bit lower, okay.  
2 Do you see the signatures there, two signatures up here  
3 (indicating), that and that?

4 A. Yes.

5 Q. Okay. Hold that thought. And let's go to  
6 AHIF-3, okay. Now, you've seen this before?

7 A. Yes.

8 Q. Okay. The same language in whatever this is,  
9 but the same text?

10 A. Yes.

11 Q. And the signatures are in -- references  
12 188,000, not 186,000?

13 A. Yes.

14 Q. And then the signatures here are reversed?

15 A. Yes.

16 Q. Okay. So this would have been the same -- did  
17 you search the computers for this one as well?

18 A. Yes.

19 Q. Did you find them at all?

20 A. No.

21 MR. CARDANI: Thank you, Mr. Christianson. I  
22 have no other question for you.

23 THE COURT: Cross.

24 MR. WAX: May I proceed, Your Honor?

25 THE COURT: Please.

1 CROSS-EXAMINATION

2 BY MR. WAX:

3 Q. Is it Mr. Christianson or Agent Christianson?

4 A. Mr. Christianson.

5 Q. Good morning. And thank you.

6 Mr. Christianson, I'd like to ask you a few questions  
7 about the items recovered, and then go into some of the  
8 computerese, and ask you a few questions about that.

9 Let me start with what was recovered at the end  
10 of the day. Do you have any count of the total number  
11 of e-mails that you recovered?

12 A. I don't have that in front of me. I don't  
13 recall how many total e-mails there were.

14 Q. Would something in the order of 20 to 25,000  
15 sound like the right ballpark?

16 A. That sounds like the right ballpark.

17 Q. Did you also look for, I think you said,  
18 financial records?

19 A. Yes.

20 Q. Okay. Did you recover any files from the  
21 QuickBooks program?

22 A. I did, yes.

23 Q. Do you recall roughly how many either complete  
24 or fragments of QuickBooks files you were able to  
25 recover?

1           A.       If I recall correctly, it was approximately at  
2     least 20 to 30.

3           Q.       Do you recall there being more than that,  
4     perhaps as many as 300 either complete files or  
5     fragments of files?

6           A.       If we include fragments, I don't know if the  
7     number was quite that high, but that sounds right.

8           Q.       Now, in terms of the recovery process,  
9     Mr. Cardani asked you whether you were aware that the  
10    defense was provided mirror copies of the hard drives  
11    that we believe are identical to the mirrors that you  
12    were working with, and I think you said you were aware  
13    of that.

14          A.       Yes.

15          Q.       Okay. In terms of the recovery process, is  
16    there, in the way in which different forensic examiners  
17    approach their work, a likelihood that you could have  
18    recovered something perhaps that the forensic people  
19    working with us did not?

20          A.       It's possible, yes.

21          Q.       And vice versa, that they might have recovered  
22    some things that you did not?

23          A.       Yes, that's possible, too.

24          Q.       In terms of the specific items that are in this  
25    JC-4 exhibit, 50 some items, that is clearly an

1 exceedingly small percentage of the total number of  
2 e-mails recovered?

3 A. Yes.

4 Q. Far less than 1 percent?

5 A. Yes.

6 Q. In terms of the items recovered, I believe that  
7 you had put up on the screen, or Mr. Cardani had put up  
8 on the screen, one document that had been copied into  
9 Microsoft Word?

10 A. That was one of them, yes.

11 Q. Do you recall that there were many Microsoft  
12 Word documents that you observed?

13 A. There were many, yes.

14 Q. The items that were put up on the screen  
15 included a number of items from ListSrvs?

16 A. Yes.

17 Q. And I believe that you were shown ListSrvs  
18 with an AQ initial, Sheeshaan group?

19 A. Yes.

20 Q. And AQ, by the way, that is the initials of a  
21 man named Abdul Qaadir, are you aware of that?

22 A. That's what I'm told, yes.

23 Q. All right. Do you recall that in terms of  
24 ListSrvs, there were scores of ListSrvs found on the  
25 computers?



1 A. Yes, there was.

2 Q. Okay. And do you recall that of those scores  
3 of ListSrvs, some had absolutely nothing to do with  
4 religion, Islam or Chechnya?

5 A. Yes.

6 Q. Peace activist work from Ashland, Oregon?

7 A. That sounds right.

8 Q. Urban forestry work?

9 A. Yes.

10 Q. *New York Times*?

11 A. Yes.

12 Q. The Ashland Patriots?

13 A. I'm not familiar with that one.

14 Q. Canadian urban forestry conference?

15 A. I'm not familiar with that one either.

16 Q. Do you recall -- did you ever do a count of the  
17 number of ListSrvs from whom items were sent that were  
18 found on the computers?

19 A. I did not do a count.

20 Q. Would something in the order of 50 sound like a  
21 reasonable approximation of what you saw?

22 A. Based on the contents that Special Agent  
23 Anderson asked me to review, that's possible.

24 Q. Okay. The government asked you to put together  
25 this exhibit, JC-4; is that correct?

1 A. Yes.

2 Q. And did I understand correctly that the primary  
3 direction for putting that together came from Agent  
4 Anderson?

5 A. That's correct.

6 Q. Did you make any effort to, you know, look at  
7 the total number of e-mails sent in the time period from  
8 the end of December 1999 through the beginning of March  
9 of 2000?

10 A. I did not.

11 Q. We just went through a number of ListServ  
12 e-mails from Mr. Abdul Qaadir.

13 A. Yes.

14 Q. Do you recall that there were at least a half a  
15 dozen e-mails from an organization called Islamic  
16 Relief?

17 A. I believe I recall that, yes.

18 Q. Do you recall that there was a series of  
19 photographs that was from *Time*, *Time* magazine Web site  
20 from mid February of 2000?

21 A. As far as the photographs, I'm not sure I  
22 recall seeing photographs.

23 Q. Could we please show the witness Exhibit  
24 Number 692 and then 692A through G. 692A, please. Do  
25 you recall the recovery of this e-mail on --

1 A. Yes, I do.

2 Q. All right. And do you see that this has a --  
3 from Q to Sunnah?

4 A. Yes.

5 Q. Do you recognize Sunnah as one of the  
6 ListSrvs?

7 A. I'm not sure if that was a ListServ.

8 Q. Okay. But there is no question that this would  
9 have been one of the recovered e-mails?

10 A. There is no question.

11 Q. The subject line on this, do you recall  
12 documented cases of 26,500 rape victims?

13 A. Yes.

14 Q. And then the salutation Salam, and LOOOOK in  
15 capital letters?

16 A. Yes.

17 Q. Then down below that, a path to a computer Web  
18 page of some sort?

19 A. Yes.

20 Q. And you recall -- do you recall that -- and  
21 this is all, obviously, part of this e-mail?

22 A. That is all part of this e-mail, yes.

23 Q. If we could go to, please, 692B. Do you recall  
24 seeing this recovered photo essay from the computer?

25 A. I didn't until I got to review this exhibit

1 prior to the trial. I didn't recall actually seeing  
2 that in the hard drive, but I did validate that it was.

3 MR. CARDANI: I would just like to establish  
4 that this was not in the computer.

5 THE WITNESS: The e-mail was in the computer.

6 BY MR. WAX:

7 Q. The e-mail was in the computer?

8 A. Yes.

9 Q. With the path?

10 A. With the path, yes.

11 Q. All right. And you validated the path through  
12 your work?

13 A. I didn't validate the path, just the e-mail  
14 itself.

15 Q. All right. Thank you. I'll move on. Did  
16 you -- do you recall a series of e-mails from  
17 Mr. Sedaghaty to Mr. al-But'he during January, February,  
18 and March of 2000?

19 A. Specifically, no.

20 Q. Were you asked by Agent Anderson to put  
21 together a chart of all communications between  
22 Mr. Sedaghaty and Mr. al-But'he in January, February,  
23 and March of 2000?

24 A. To put together a chart of all communications,  
25 no.

1 Q. Similar to JC-4.

2 A. I was not asked to do that, no.

3 Q. Do you recall from your review roughly 50  
4 e-mails in that period between Mr. Sedaghaty,  
5 Mr. al-But'he, Mr. Sedaghaty, and a number of other  
6 people regarding the humanitarian crisis in Chechnya?

7 A. Again, I don't recall those. My role was  
8 simply to provide the data in a reviewable form for  
9 Special Agent Anderson, and she identified these JC-4  
10 exhibits.

11 Q. All right. So if you were not asked to put it  
12 in JC-4 by Agent Anderson, you would not necessarily  
13 have focused on it?

14 A. Not necessarily.

15 Q. We were provided, as you understand it, the  
16 same mirror hard drives that you were working from?

17 A. Yes.

18 Q. Were you provided copies of the exhibits that  
19 we had marked for identification some time ago so that  
20 you could do a check to see whether the items that were  
21 identified from the computer were consistent with your  
22 work?

23 A. Yes.

24 Q. Okay. And did you find that all of the items  
25 that we had identified from the computer were, according

1 to your work, actually on the computer?

2 A. Yes.

3 Q. I'd like to ask you a few questions now,  
4 please, about some of the computer processes. And  
5 please bear with me if I don't use the precise  
6 terminology and correct me as needed.

7 A. Okay.

8 Q. If I understood you correctly, the files that  
9 are -- excuse me, the exhibits that are included in this  
10 SW series were what you called recovered from  
11 unallocated space?

12 A. That's correct.

13 Q. All right. Now, in terms of the terms  
14 allocated and unallocated space, perhaps it would help  
15 if you could provide a little bit more background on  
16 them.

17 Are there a number of ways in which items on a  
18 computer can be -- I'm not sure if the phrase is  
19 transferred to or can be found in unallocated space or  
20 get to unallocated space? What would be the correct  
21 phrase? Transfer to? Get to? Help me out.

22 A. No, that's correct. There are a number of ways  
23 that data could ultimately reside in unallocated space.

24 Q. For example, if I have an e-mail on my  
25 computer, I'm going through my regular e-mail list, I

1 look at something, and I hit the delete button for that  
2 one e-mail, what happens to it?

3 A. Depending on the type of e-mail that you are  
4 using, again I'll go back to the example of Microsoft  
5 Outlook, it simply goes to a deleted items folder inside  
6 the e-mail box.

7 Q. Now, my IT people at the office tell me that  
8 I'm terrible, my e-mail grows too big, and that there is  
9 a function for emptying the mailbox, and all I need to  
10 do is program it and it can happen automatically in the  
11 normal course?

12 A. Yes.

13 Q. You are familiar with such things?

14 A. I am familiar with such things.

15 Q. What happens when the trash gets emptied  
16 automatically in the normal course?

17 A. Again, back to my example of Microsoft Outlook  
18 program, much like a hard drive, the e-mail simply gets  
19 deleted within the confines of that mailbox. And you  
20 can relate it to the same thing as data being stored on  
21 the hard drive itself. It actually has an allocated  
22 space inside the actual PST file or the Outlook mailbox.

23 Q. And then when you empty it, then what happens?

24 A. When you empty it, that frees up space inside  
25 your mailbox, and it can be recovered to an extent until

1 it's overwritten by new e-mail.

2 Q. So in the normal course, the way in which a  
3 person could have a computer set up, e-mails could go  
4 into unallocated space?

5 A. Sure, yes.

6 Q. All right. So there is nothing sinister about  
7 the fact that something is in unallocated space in and  
8 of itself?

9 A. In and of itself, no.

10 Q. Now, from time to time some of us are infected  
11 by viruses on our computers. And when that happens,  
12 what do some viruses do?

13 A. Well, viruses can do a great number of things.

14 Q. Sure. With respect to how things could end up  
15 in unallocated space.

16 A. Viruses can simply corrupt data, slow your  
17 computer down, and, again, a number of other things.

18 Q. All right. So in terms of corruption of data,  
19 a virus could render data unreadable when you turn on  
20 your computer and log in?

21 A. It's possible, yes.

22 Q. And that material, which you couldn't access,  
23 you might be able to retrieve with your EnCase tool or  
24 some other tool from unallocated space?

25 A. Yes.



1           Q.       All right. So assume I'm infected by a virus,  
2       assume I'm a teenage boy, and I think I know better than  
3       the computer, and I want to try to fix it myself, or  
4       assume I'm 62 years old and make the same mistake,  
5       reformatting a computer, what does that mean?

6           A.       Reformatting a computer is, again, I'd like to  
7       use an analogy. If you want to -- if you go to the  
8       store and buy a three-ring binder, and you want to store  
9       notes. You buy an empty three-ring binder, that's like  
10      your hard drive. Now, before you can actually write or  
11      store notes inside that binder, you have to put paper  
12      inside. So you would put paper inside. And that  
13      essentially creates a partition in relative to -- in  
14      relation to the hard drive, and you can start taking  
15      notes. Something is there for you to be able to store  
16      notes with your writing.

17                 So when you partition a hard drive, that's  
18      simply saying you take something that's blank and you  
19      can't write to it, now you partition and format the hard  
20      drive so that you can put things like Windows and things  
21      like that.

22           Q.       So if, for example, a computer is corrupted by  
23      a virus, one of the things that a person might need to  
24      do or could do in an effort to get the computer working  
25      again, would be to reformat it?

1 A. Yes.

2 Q. In that process, would material that had  
3 previously been on it before the reformatting now be in  
4 unallocated space and potentially recoverable by a  
5 person such as yourself?

6 A. Yes. If you reinstall Windows, the data that  
7 existed on there before you reinstalled, would be  
8 deleted.

9 Q. All right. Now, one of the things that, again,  
10 my IT guys tell me to do is back up onto these little  
11 memory sticks or onto discs. A person might take an  
12 e-mail file, delete it, and back it up on a disc?

13 A. Yes.

14 Q. You could do that with a legal brief, or  
15 anything else you are working on, your poetry?

16 A. You could, yes.

17 Q. All right. So that could be a reason why  
18 something would not be retrievable other than through  
19 your allocation -- excuse me -- recovery process?

20 A. Yes.

21 Q. All right. Now, in terms of this word  
22 "overwriting" that you've used, every now and then the  
23 IT guys tell me to defrag my computer. To defrag, what  
24 does that mean, and what does that tell us about how  
25 data is stored on computers that might be relevant to

1 this deletion/recovery process? Defrag.

2 A. To defrag means -- we'll take, for example,  
3 Microsoft Windows, when it stores files on your hard  
4 drive, sometimes the storage places on a hard drive are  
5 in fragments, so that naturally can slow down accessing  
6 the files. Most of the time, transparent to you and I  
7 as users.

8 If you use the defragment option for your hard  
9 drive, it simply brings the pieces of a single file that  
10 belong to each other and makes them contiguous on a hard  
11 drive, and basically making it more efficient, cleaning  
12 it up.

13 Q. So, for example, if I were to type a brief, and  
14 I am sitting there thinking I'm typing straight away,  
15 inside the computer that brief could be in a whole bunch  
16 of different places?

17 A. It could be, yes.

18 Q. And the defragging process, when the IT guys  
19 tell me to do it, is going to put some of that stuff  
20 back together?

21 A. Yes.

22 Q. So with respect, for example, to the QuickBooks  
23 files and the fragments of QuickBooks files, you could  
24 have a QuickBooks file, and while you're accessing it,  
25 you might think it's all in one place, but on the

1 computer, it's really a whole mess of fragments?

2 A. It's possible, yes.

3 Q. All right. So that, in terms of fragments, is  
4 one way in which fragments just occur in the normal  
5 course of the operation of a computer?

6 A. Yes.

7 Q. All right. Now, with respect to this word  
8 "overwriting," when something is deleted, so I have  
9 typed something or I've got an e-mail and the computer  
10 has it stored somewhere, I hit the delete button, the  
11 item is actually still there, as you've described, that  
12 you could get to through your recovery tools?

13 A. Yes.

14 Q. All right. If I just, in the normal course,  
15 type another brief or write another e-mail, the computer  
16 could -- and not could, the computer does on its own  
17 decide where to put this new item?

18 A. Yes.

19 Q. And it could very well, and does all the time  
20 on everyone's computer, overwrite data?

21 A. Yes.

22 Q. So when you are talking about overwriting, you  
23 are talking about a normal process that goes on with  
24 normal computer use?

25 A. It's possible, yes.

1 Q. Okay. Now, in some cases that we've dealt with  
2 where because of the nature of the material, it actually  
3 had to be put in a way that you just couldn't ever get  
4 to it, classified material, you have to delete forever.  
5 You can overwrite some of that with some programs that  
6 overwrite, you know, 39 times or whatever the magic  
7 number is, correct?

8 A. Yes.

9 Q. Now, in terms of the overwriting that you  
10 observed here, you're talking about you type something,  
11 you delete, you type something else, a fragment might be  
12 there, the whole thing might be there, or it might have  
13 been completely overwritten?

14 A. Yes.

15 Q. Okay. Now, in terms of the work that you are  
16 able to do, clearly you are not present when these  
17 computers were being used?

18 A. I was not.

19 Q. So you do not know who was sitting at the  
20 computer typing?

21 A. No.

22 Q. Reading?

23 A. No.

24 Q. Deleting?

25 A. No.

1 Q. For the most part, you do not know when an item  
2 was read?

3 A. No.

4 Q. You can tell from an e-mail header when the  
5 person perhaps sent it, correct?

6 A. Correct.

7 Q. But could have been read that day?

8 A. It doesn't actually flag when it was read, just  
9 the fact that, yes, it was read, or, no, it was not.

10 Q. Okay. Could have been that day? That week?  
11 That month? That year? That decade?

12 A. Yes.

13 Q. Now, with respect to the Web page question, I  
14 think Mr. Cardani asked you about whether the -- some of  
15 these Web pages were recovered from the unallocated  
16 space. And I am not sure if he used the word deleted,  
17 but I think that that was at least the inference in the  
18 question. I want to ask you, please, about how  
19 computers deal with Web pages.

20 A. Can you be more specific?

21 Q. I'll try. When I go to WWW dot whatever, and a  
22 Web page pops up, Time Essay, you know, Time.com, with  
23 that Web line on it, okay?

24 A. Okay.

25 Q. The page image appears on my computer, correct?

1 A. Correct.

2 Q. Now, let's assume I don't hit save in any way,  
3 okay?

4 A. Okay.

5 Q. Does the computer nonetheless retain an image  
6 of that Web page that I visited?

7 A. The natural behavior for a Web browser is yes.

8 Q. Okay. So I think I'm being sneaky, and I don't  
9 want someone to know I visited a Web page, but you come  
10 along, and it's right there anyway, correct?

11 A. Correct.

12 Q. All right. Now, with respect, then, to the  
13 fact that Web pages are in unallocated space, you have  
14 no way to know if they were ever actually saved to the  
15 computer?

16 A. No.

17 Q. If there was any intentional deletion?

18 A. No.

19 Q. Or whether a person read something on the  
20 computer, as many of us do, closed it and moved on in  
21 the normal course?

22 A. Yes.

23 Q. I'd like to ask you now, sir, a little bit  
24 about what I think Mr. Cardani was starting with, the  
25 length of time that it took you to do this recovery. If

1 I heard correctly, you told us that this was the largest  
2 or one of the largest cases in terms of the amount of  
3 data on which you've worked?

4 A. Yes.

5 Q. Now, the volume of e-mail that you found and  
6 had to deal with, 23 or 25,000 over a multiyear period,  
7 there is nothing unusual about that, is there?

8 A. There is nothing unusual about that.

9 Q. All right. Now, with respect to e-mail  
10 recovery, help us out here, please. Is that just in and  
11 of itself, regardless of the computer, a time-consuming  
12 process that will often need to be done manually?

13 A. I found it to be a standard process that I run  
14 and usually I find results.

15 Q. What does "file carving" mean?

16 A. "File carving" means, to put it simply, most  
17 files have a unique file signature or fingerprint that  
18 make it unique, at least from where a file can be  
19 identified, and to carve for a file means to search for  
20 that unique signature or fingerprint, and to identify  
21 that there is the possibility that that file might be  
22 there.

23 Q. All right. In terms of e-mails, how does  
24 looking for e-mails and this concept of file carving  
25 relate?



1           A.       Depending on the type of e-mail, file carving  
2       is actually that technique that I actually used to  
3       recover the Microsoft Outlook mailbox.

4           Q.       All right. I thought I heard you use the word  
5       manual in your direct testimony. Did I?

6           A.       Yes.

7           Q.       All right. Tell us, please, what your  
8       reference to that word meant in terms of this process?

9           A.       Okay. So it's actually a several part process.  
10      So you can search through, use initial search for that  
11      particular fingerprint, and then manually review the  
12      data, what we would call like the physical level.

13                  Logical data is what you see when you use your  
14      computer everyday. Forensically we look physically at  
15      the file on the hard drive. And the manual process is  
16      to find out long or how big the file might actually be  
17      to make sure that you can get accurate recovery.

18          Q.       That's in the normal course of this kind of  
19      recovery process, whether it's these computers or other  
20      computers?

21          A.       It is a normal course, yes.

22          Q.       And it is a very time-consuming process?

23          A.       It is very time-consuming.

24          Q.       And because of the large volume of data that  
25      you were attempting to recover, it took you a lot of

1 time?

2 A. It took me a lot of time, yes.

3 MR. WAX: May I have a moment, please, Your  
4 Honor?

5 THE COURT: Yes.

6 (Discussion held off the record.)

7 MR. WAX: Thank you, sir. I have no further  
8 questions.

9 THE COURT: Redirect.

10 MR. CARDANI: Thank you.

11 REDIRECT EXAMINATION

12 BY MR. CARDANI:

13 Q. Following up on some of counsel's questions,  
14 Mr. Christianson, talking about the Sheeshaan things  
15 about Chechnya and the mujahideen, do you remember him  
16 asking you about that?

17 A. Yes.

18 Q. All right. So you reviewed some on direct, and  
19 we took out -- we went over a few of them. And you know  
20 that there are several more exhibited that we didn't go  
21 over in your testimony?

22 A. Yes.

23 Q. Those are all -- there is a lot of other  
24 Sheeshaan e-mails regarding Chechnya, correct?

25 A. As I recall, yes.

1 Q. Mujahideen?

2 A. Yes.

3 Q. And funding issues?

4 A. Yes.

5 Q. And are you aware that there were literally  
6 hundreds and hundreds of these types of e-mails in the  
7 deleted sections of these computers?

8 A. I'm not sure of the exact number, but yes.

9 Q. Many, many, many more than what's been  
10 exhibited here?

11 A. Yes.

12 Q. Involving the same subject?

13 A. Yes.

14 Q. All right. Now, your inventory, JC-4, starts  
15 in January 4th of 2000 and goes right up through page 4,  
16 March 8, 2000, into page 5 of a 7-page document.

17 My point is, are the ones in here, search  
18 warrant exhibits that are listed on the Sheeshaan group  
19 of Chechnya, mujahideen, and funding issues, are they  
20 representative of a certain time period, January and  
21 March?

22 A. Yes.

23 Q. But there are others, many, many others  
24 regarding these same subjects that involve different  
25 time periods?

1 A. There were others, yes.

2 Q. You know that this trial involves the time  
3 period that is very sensitive to that time period,  
4 January to March of 2000?

5 A. Yes.

6 Q. Now, Mr. Wax asked you about viruses and  
7 corruption of computers and things like that. Are there  
8 ways to preserve data before computers are worked on or  
9 reformatted -- and when you are reformatting a computer,  
10 you're jeopardizing the loss of tremendous amounts of  
11 information?

12 A. That's possible, yes.

13 Q. Are there ways to prevent that from happening?

14 A. Yes. You can buy an external hard drive, or a  
15 USB device, some kind of storage device, and back up the  
16 data that you would like to save, and then reformat your  
17 hard drive.

18 Q. All right. So if I've got this virus that he's  
19 alluding to, and I think I've got serious problems and  
20 somebody has to wipe them, then I buy one of these  
21 external hard drives, download all of my important  
22 information --

23 A. Yes.

24 Q. -- reformat the thing, and then migrate the  
25 information back onto the computer?

1 A. Yes, that's one way to do it.

2 Q. All right. And is that common in business when  
3 computers are reformatted?

4 A. Based on my experience, that's common.

5 Q. Because you don't want to lose the data?

6 A. Yes.

7 Q. Now, Mr. Wax spent quite a bit of time talking  
8 about the amount of time spent looking for these e-mails  
9 and things like that. I just want to get right back  
10 into this one. Explain the difference between looking  
11 for deleted e-mails and the entire absence of the whole  
12 mailbox system for the jury.

13 A. Explain it again?

14 Q. Yes.

15 A. In this particular case, I go to the example of  
16 the type of e-mail that I recovered. Again, Microsoft  
17 Outlook, if you want to delete an e-mail, it's  
18 self-contained inside your personal storage folder,  
19 which is a single file. But in this particular case, I  
20 recovered entire mailbox files.

21 Q. Okay. So the whole system of e-mails was gone,  
22 the Outlook e-mail system was gone on these computers?

23 A. That's correct.

24 Q. Is that significant?

25 A. That's fairly significant.

1 Q. Was it that absence of the entire system that  
2 made your work in part so time-consuming?

3 A. Yes.

4 Q. The search warrant e-mails that are listed in  
5 your JC-4 were all opened by someone on the computer?

6 A. They were opened, yes.

7 MR. CARDANI: Excuse me one minute.

8 (Discussion held off the record.)

9 MR. CARDANI: That's all I have. Thank you.

10 MR. WAX: A couple of questions, please, Your  
11 Honor.

12 RECROSS-EXAMINATION

13 BY MR. WAX:

14 Q. Mr. Christianson, with respect to this question  
15 about external hard drives, were you provided any backup  
16 discs or hard drives to review?

17 A. I was not.

18 Q. Are you aware that there was a box found in the  
19 search warrant that was labeled backup discs?

20 A. I was not aware of that.

21 Q. And you weren't given that, obviously?

22 A. I was not.

23 Q. All right. With respect to the deletion of or  
24 the recovery of the entire mailbox, the reformatting  
25 issue that we discussed and the problem of viruss or

1 reformatting, that could very well lead to the  
2 elimination of an entire mailbox?

3 A. That's possible, yes.

4 Q. And that mailbox could very well have existed  
5 on any of the backup media that were found but not  
6 provided to you?

7 A. That's possible, yes.

8 MR. WAX: Thank you, sir.

9 MR. CARDANI: Nothing else, Your Honor.

10 THE COURT: Thank you. You may step down.  
11 We'll take a short break, Jurors.

12 MR. CARDANI: May the witness be excused, Your  
13 Honor?

14 THE COURT: Excuse me?

15 MR. CARDANI: May the witness be excused?

16 THE COURT: Yes.

17 (Jury exits the courtroom at 11:09 a.m.)

18 THE COURT: Which exhibits do you need a ruling  
19 according to your records?

20 MR. WAX: Excuse me, Your Honor?

21 THE COURT: Which exhibits do you need a ruling  
22 according to your records?

23 MR. WAX: The SW-1, EK-7, and EK-7A.

24 MR. CARDANI: Don't -- we have some confusion,  
25 Your Honor. EK-7 as having been admitted by the court.

1 MR. WAX: We thought that was for demonstrative  
2 purposes only.

3 MR. GORDER: That's my understanding, yes.

4 MR. WAX: And so 7A would be the one they want  
5 to show to the jury.

6 MR. GORDER: 7A is the translation.

7 THE COURT: Yes. I think it's just EK-7,  
8 Mr. Wax. Well, didn't I already say about that that  
9 they could use it for demonstrative purposes?

10 MR. WAX: Yes, but I think that EK-7A is a  
11 translation that the government actually wants to  
12 introduce into evidence and --

13 MR. GORDER: No. We simply want to play it  
14 with the video, in other words, it would be subtitled,  
15 not go to the jury.

16 MR. WAX: Well, we object to that. And there  
17 is a translation dispute that we would need to talk with  
18 the government about as well.

19 THE COURT: Well, talk to them about it. I'll  
20 give you your rulings when we get back. All right.

21 And SW-1 is received.

22 With regard to the Sui matter, you may call him  
23 by video.

24 MR. WAX: Thank you.

25 MR. CARDANI: Judge, excuse me, Daveed



1 Gartenstein-Ross is coming up as a witness, not right  
2 now, we've got a lengthy witness next. But he's coming  
3 up later on. The BOA-6 issue, the 404(b), we would like  
4 to be heard on that once again before his testimony.

5 THE COURT: I don't want more argument on it on  
6 the record. Based on the defendant's opening, BOA-6 is  
7 received.

8 MR. CARDANI: Thank you.

9 (Recess: 11:12 until 11:31 a.m.)

10 THE COURT: What I don't have is 7A, EK-7A.  
11 Tell me the story on the translation.

12 MR. GORDER: Your Honor, I think there is a  
13 copy of EK-7A which we gave to the court staff. EK-7 is  
14 the video that Evan Kohlmann is going to show the jury.  
15 And EK-7A is just the subtitles that will translate  
16 what's on the screen.

17 THE COURT: Who did the translation?

18 MR. GORDER: FBI linguist, Arabic, Chechen, and  
19 Turkish.

20 THE COURT: Are you calling them?

21 MR. GORDER: No, we are not. I think we've  
22 worked out the issue with the defense. There was a lot  
23 of confusion as to what clips should be translated. And  
24 you don't need to bother with that. But I think they  
25 were worried about something that's not in the video

1 that we're going to show.

2 THE COURT: All right. Thank you. Okay. I  
3 see the translation. Thank you.

4 We don't need to do an oath. You are admitted.  
5 Just give me an order, Mr. Wax.

6 MR. WAX: Can we do that for Ms. Sweet as well?

7 THE COURT: Yes, that's fine.

8 MR. WAX: Thank you.

9 THE COURT: Certainly for this case. And I --  
10 what I -- we always have a local lawyer because we need  
11 someone who we can hold accountable if we decide to do  
12 something.

13 MR. WAX: I'm sitting right here.

14 THE COURT: And we have one.

15 MR. MATASAR: I'll be here. You can come after  
16 me.

17 THE COURT: I'm not coming after you. It'll be  
18 him. So you have your friend's well-being in your  
19 hands.

20 What else is there now?

21 MR. GORDER: Your Honor, our next witness is  
22 Evan Kohlmann. I expect to spend a couple of hours with  
23 him on direct, so I was just curious as to the court's  
24 plans for the lunch break.

25 THE COURT: Want to get him started. I found

1 it's better to do that. You know, you folks still have  
2 lots of energy. You each examined the last witness  
3 three times, and -- but you'll wear down as we keep  
4 going.

5 MR. GORDER: They're triple teaming us, Judge.

6 THE COURT: Nothing was achieved in those last  
7 two, by the way, in my opinion. Let's seat the jury.

8 MR. CARDANI: Mr. Wax and I felt much better  
9 about it, though, Judge.

10 THE COURT: I'm glad you enjoyed it. You  
11 enjoyed yourself more than the jurors did on that one.

12 (Jury enters the courtroom at 11:35 a.m.)

13 THE COURT: Call your next witness, please.

14 MR. GORDER: Your Honor, we would call Evan  
15 Kohlmann.

16 THE COURT: Thank you.

17 THE CLERK: Sir, would you please step forward  
18 to the center of the courtroom. And please raise your  
19 right hand.

20 (The witness was sworn.)

21 THE CLERK: Thank you. Please take the witness  
22 stand. Sir, your microphones are the round circles  
23 right up here.

24 THE WITNESS: Thank you.

25 THE CLERK: Sir, please state your full name

1 for the record, spelling your last name.

2 THE WITNESS: Yes. Of course. My full name is  
3 Evan F. Kohlmann, K-O-H-L-M-A-N-N.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. GORDER:

7 Q. Good morning, Mr. Kohlmann.

8 A. Good morning.

9 Q. Welcome to Oregon.

10 A. Thank you.

11 Q. Could you tell the jury what you do for a  
12 living.

13 A. Yes, I work as an international terrorism  
14 consultant.

15 Q. And where is your offices?

16 A. My primary office is located in New York, New  
17 York. However, my business, Flashpoint Global Partners,  
18 has offices around the world including in Peshawar,  
19 Pakistan.

20 Q. Now, how did you get into this line of work?

21 A. I started this line of study back when I was a  
22 student at Georgetown University. I was -- at  
23 Georgetown, I was a student of the Edmund A. Walsh  
24 School of Foreign Service. And while there, I was  
25 involved in two different programs at Georgetown.

1           One program is known as the Center For  
2   Contemporary Arab Studies, the CCAS. And the other is  
3   known as the Center for Muslim-Christian Understanding,  
4   or CMCU.

5           At Georgetown I graduated with a degree in  
6   international politics, with a focus in international  
7   security studies. I worked as a research assistant for  
8   Dr. Mamoun Fandy, M-A-M-O-U-N, F-A-N-D-Y. And I also  
9   achieved a certificate from the Center for  
10   Muslim-Christian Understanding in Islam and Muslim-  
11   Christian Understanding.

12        Q.       Now, while you were at Georgetown, what was the  
13   particular focus of your studies?

14        A.       The particular focus of my studies was on the  
15   Arab Afghan movement. The Arab Afghan movement is a  
16   movement that began during the 1980s when foreign  
17   fighters began traveling to Afghanistan in hopes of  
18   participating in conflict against the occupying Soviet  
19   forces. Though the forces were primarily the holy  
20   warriors, the mujahideen, were primarily Afghan and  
21   Pakistani, there was a small contingent of foreign  
22   fighters who came from around the world, including from  
23   here in the United States, to participate in combat  
24   against the Soviets in the name of Islam or the name of  
25   the Islamic cause.

1 Q. And they were referred to as the Arab Afghans?

2 A. Yes. The idea being is that the majority of  
3 them came from Arabic origin or Arabic descent, so it  
4 was a reference term referring to Arab fighters in  
5 Afghanistan.

6 Q. At Georgetown, did you have the opportunity to  
7 study a region called Chechnya?

8 A. Yes. As a result of my studies at Georgetown,  
9 I completed my studies at Georgetown, I should say, by  
10 writing a senior honor's thesis. My honor's thesis  
11 title was actually The Legacy of the Arab Afghans, a  
12 Case Study.

13 What I attempted to do at my thesis was look at  
14 the initial creation of the Arab Afghan movement, and  
15 then do a comparative study tracing how these fighters  
16 had gone on from Afghanistan to other conflict zones,  
17 and trying to understand the impact that those fighters  
18 had had in those conflict zones, and why they had  
19 achieved relative degrees of success or failure.

20 Of the four countries that I studied, aside  
21 from Afghanistan, one of which was the Caucasus or  
22 Chechnya.

23 Q. When did you graduate from Georgetown?

24 A. I graduated from Georgetown in the spring of  
25 2001.

1 Q. And what degree did you achieve there?

2 A. My degree was in international politics with a  
3 focus on international security studies. And also, of  
4 course, I got my certificate in Islam and Muslim-  
5 Christian understanding.

6 Q. Now, I understand after that you went to law  
7 school?

8 A. That's correct, yes. I was working throughout  
9 this time at a think tank based in Washington, D.C.  
10 studying these groups. Aside from my academic  
11 credentials, I was also doing work in a think tank  
12 studying these groups, mapping out their recruitment,  
13 financing, and whatnot, and I continued to do that, but  
14 at the same time I decided to continue my studies at the  
15 University of Pennsylvania Law School.

16 Q. And did you eventually graduate from law  
17 school?

18 A. I did, yes.

19 Q. You decided to be an international terrorism  
20 consultant, not a lawyer?

21 A. Yes. The focus of my studies even at law  
22 school was primarily directed towards international  
23 security studies, terrorism, and paramilitary  
24 organizations, looking at the ways these organizations  
25 work within international law, and the substantive

1 aspects.

2 While in law school, I took classes outside of  
3 law school in the Graduate School of Arts and Sciences  
4 at the University of Pennsylvania in such areas as  
5 Afghanistan and Islamism.

6 Q. Now, you mentioned working for a think tank in  
7 Washington D.C. Can you explain a little bit what your  
8 duties were there?

9 A. Yes. I began -- the think tank is known as the  
10 Investigative Project. It was founded in 1995 as a  
11 watchdog organization studying international terrorist  
12 groups. It was founded by a former CNN journalist. I  
13 began working there as an intern when I first started my  
14 studies at Georgetown University, but because of the  
15 fact that I stayed there for several years, my position  
16 within the think tank accelerated to the point where  
17 when I was in law school, even though I was a part-time  
18 employee of the think tank, I was a senior analyst.

19 Q. And what kind of things did you do there?

20 A. The purpose of my research at the Investigative  
21 Project was to study in depth the recruitment,  
22 financing, propaganda, and communications of  
23 international terrorist organizations, most  
24 specifically, al-Qaeda and al-Qaeda affiliate groups,  
25 and other permutations of the Arab Afghan movement. In



1 other words, I was studying both the terrorist  
2 organization al-Qaeda and other groups that had emerged  
3 from the Arab Afghan movement of the 1980s, groups  
4 including the Islamic Army of the Caucasus and Chechnya,  
5 the Libyan Islamic Fighting Group, the idea being that  
6 there was a panoply of different organizations. And it  
7 was important for comparative study to understand how  
8 each of these organizations worked. And studying the  
9 very, very specific aspects of these groups that few  
10 others were paying attention to at the time.

11 Q. How do you study these groups?

12 A. Well, as taught to me at Georgetown University  
13 there is a particular way of conducting proper social  
14 science research on these groups. I use a very basic  
15 element of social science research, which is known as  
16 comparative analysis. In other words, you get as many  
17 credible sources as possible about a particular  
18 organization, an individual, an aspect of an  
19 organization, and you compare and contrast them  
20 attempting to determine what actually happened, what is  
21 the accepted narrative of what happened here.

22 In order to obtain sources regarding  
23 international terrorist groups, which tend to be shadowy  
24 and difficult to contact, I relied on a variety of  
25 different techniques.

1           There are primary sources where you actually go  
2 out in the field and you speak to a representative of a  
3 terrorist group, someone who is a spokesman of a  
4 terrorist organization, or you witness events going on  
5 in the field.

6           Q.       Have you done any of that?

7           A.       Yes, yes. I've interviewed a number of  
8 different individuals who have been subsequently  
9 convicted or have been charged with international  
10 terrorist offenses, people such as Sheikh Abu Hamza  
11 al-Masri, A-B-U, H-A-M-Z-A, A-L, dash, M-A-S-R-I.  
12 People such as Abdullah Anas, A-B-D-U-L-L-A-H, A-N-A-S.  
13 Omar Bakri Mohammed, O-M-A-R, B-A-K-R-I,  
14 M-O-H-A-M-M-E-D. Saad al-Faqih, S-A-A-D, A-L,  
15 F-A-Q-I-H. I've interviewed a number of these  
16 individuals whenever I have the opportunity.

17          Q.       Now, you mentioned there was some other sources  
18 that you would look at besides primary sources.

19          A.       Yes. As I explained, when it comes to  
20 terrorists and paramilitary organizations, fairly  
21 obviously it's sometimes difficult to get direct access  
22 to the leaders of these groups or the spokesmen of these  
23 groups, or to go to Afghanistan or Chechnya or Somalia  
24 and view these events as they are going on, especially  
25 if you're not from within the movement.

1           As a result, we also rely on secondary sources.  
2           A secondary source would be a video recording produced  
3           by one of these organizations, a magazine produced by  
4           one of these organizations, an official communiqué  
5           released by one of these organizations or one of their  
6           spokesmen. In other words, it's not quite as good as  
7           being there and seeing the events live, but this is a  
8           credible source. This is, in other words, from the  
9           horse's mouth.

10           In other words, if a leader of a group, the  
11           Islamic Army of the Caucasus would release a video, we  
12           would gain access to the video, we would translate the  
13           material, and we would attempt to understand the  
14           information in there how this fits into our greater  
15           understanding, again, of the communications, propaganda,  
16           financing, and recruitment of these organizations.

17           THE COURT: Mr. Kohlmann, please try to slow  
18           down a bit.

19           THE WITNESS: I apologize, Your Honor.

20           BY MR. GORDER:

21           Q.       Speaking of foreign languages, do you speak  
22           any?

23           A.       Yes. I speak English and French fluently, and  
24           I also speak some broken Arabic.

25           Q.       Okay. English sometimes too fast.

1           A.       Very frequently.

2           Q.       Okay. And when you say broken Arabic, what do  
3 you mean by that?

4           A.       Well, in order to study Islam, you have to  
5 understand basic Arabic vocabulary. However, I never  
6 took Arabic as a formal language. Instead, what we do  
7 is we rely on native translators. My research assistant  
8 is a native Jordanian who is a native speaker of Arabic.  
9 Our office in Peshawar, Pakistan, we have native  
10 speakers of Urdu, of Pashto, of Dari.

11                   We -- in the end, we decided that it was simply  
12 better to have native speakers doing the translation  
13 because of the fact that there are certain things as  
14 foreign nationals or as a secondary speaker of the  
15 language you don't necessarily catch, especially with  
16 Arabic which tends to be colloquial, and has different  
17 permutations across the Middle East. In other words,  
18 the Arabic spoken in Morocco is not necessarily going to  
19 be the same as the Arabic spoken in Egypt or Saudi  
20 Arabia, et cetera. Rather than trying to learn each  
21 dialect, it's much better to hire people who are native  
22 speakers who can do the translation.

23           Q.       Now, are you affiliated with an organization  
24 called NEFA?

25           A.       Yes.

1 Q. And what do you do for them and what are they?

2 A. NEFA -- the NEFA Foundation stands for 9/11  
3 Finding Answers. It's a nonprofit foundation here in  
4 the United States which was created after the  
5 September 11th terrorist attacks in order to sponsor  
6 nonprofit research, again on the very same aspects of  
7 paramilitary and terrorist organizations that I was  
8 doing previously. In other words, the communications,  
9 the recruitment, the financing. These are issues that  
10 are beyond what you would read in the newspaper, but  
11 we -- NEFA was founded because -- the idea was that  
12 these areas are essential in order for academics, policy  
13 makers, even ordinary citizens to be able to understand  
14 these groups and the phenomena, it was important to  
15 bring these aspects out, and to make them available  
16 publicly.

17 So, for instance, the NEFA Web site maintains a  
18 very large, open database of documents, videos, and  
19 other material relating to international terrorist  
20 groups, which are made freely available to the public  
21 with the idea of educating the public and allowing the  
22 public to make their own decisions about what is  
23 significant, what is important, and how this fits in,  
24 again, to the larger framework of world events.

25 Q. Have you written any books on the subject?

1 A. Yes, I have.

2 Q. And what was that?

3 A. My book, *Al-Qaida's Jihad in Europe: The*  
4 *Afghan-Bosnian Network* was the flowering of my thesis.  
5 In other words it was me taking my honor's thesis and  
6 expanding it into a full length book, looking  
7 specifically at the conflict in Bosnia-Herzegovina  
8 between the 1990s and how that related to the Arab  
9 Afghan movement begun in Afghanistan. It was published  
10 in London in 2004 by Oxford Press.

11 Q. And did you cover the topic of Chechnya in the  
12 book?

13 A. Yes, I did. The reason being is that, among  
14 other reasons, a number of the individuals who fought  
15 with the Arab Afghans in Bosnia-Herzegovina would later  
16 go on and graduate, I guess you could say, and then go  
17 on and fight with the Islamic Army of the Caucasus. The  
18 two conflicts kind of neatly arranged each other where  
19 the Bosnian conflict ended in approximately November of  
20 1995, and the major phase of the Chechen war, at least  
21 the phase involving foreign fighters, began in  
22 approximately 1996 and 1997.

23 Q. Have you testified before Congress on subjects  
24 like this?

25 A. Yes I have.

1 Q. Most recently, when was that?

2 A. Most recently, about a month and a half ago, I  
3 testified before the Senate Judiciary Committee, the  
4 Subcommittee on Crime and Drugs, on the subject of the  
5 role of a Saudi state sponsored charitable organizations  
6 in financing paramilitary and terrorist organizations.

7 Q. Now, how do you keep track of all this  
8 information?

9 A. In order to keep track of this information, we  
10 maintain a very large electronic database. The database  
11 is approximately three terabytes, two to three terabytes  
12 in size. A terabyte is a thousand gigabytes. And a  
13 gigabyte is a thousand megabytes.

14 To give you some idea of how much data is  
15 stored in there, you are talking about millions and  
16 millions of pages literally. Now, keep in mind some of  
17 these files are video files, which are larger than a  
18 text file. But in reality, we have hundreds, if not  
19 thousands, of video recordings obtained from around the  
20 world, from the Internet, from elsewhere, from on the  
21 ground, text documents, communiqués, magazines. We  
22 literally have every single communiqué released by any  
23 major Arab Afghan faction in the last six or seven years  
24 all neatly arranged in business records, so they're very  
25 easily recallable.

1           We translate these materials, and then we put  
2           them in electronic database for the purpose of then  
3           searching.

4           We have electronic search tools that allow us  
5           to run searches through this material, which are known  
6           as Boolean searches. It's B-O-O-L-E-A-N. By Boolean,  
7           Boolean is "and," "if," "or," "nor," in other words, we  
8           can conduct very, very specific searches through this  
9           material looking for very specific key words and  
10          eliminating material that we know is not relevant.

11          And with these search tools, we're actually  
12          able to conduct searches instantaneously and get  
13          immediate answers about what is in the database that is  
14          relevant to a particular search.

15          MR. CASEY: Your Honor, if I may object to the  
16          style of answering. It's a narrative --

17          THE COURT: Overruled.

18          MR. CASEY: Thank you, Your Honor.

19          BY MR. GORDER:

20          Q.       Mr. Kohlmann, when you say "we," who are you  
21          talking about?

22          A.       Well, my company, Flashpoint Global Partners, I  
23          am one of the chief partners. Then in addition to  
24          myself, I have my research assistant, who is, again, a  
25          Jordanian national, he speaks Arabic fluently.



1           We also have others who work in the office who  
2   speak Russian and a variety of other languages. Plus,  
3   of course, we have my other partners who are based in  
4   London and also in New York, and then we also have our  
5   office in Peshawar, Pakistan, which operates to collect  
6   local information from the field.

7           For instance, we were among the first -- or as  
8   far as I know, the only individuals to get access to the  
9   martyrdom video of Faisal Shahzad, the individual who  
10   attempted to detonate a bomb in Times Square several  
11   months ago. We were able to do that with our sources on  
12   the ground in Pakistan.

13         Q.     Now, have you testified as an expert witness in  
14   other courts?

15         A.     Yes, I have.

16         Q.     Could you explain to the jury just briefly  
17   where.

18         A.     Sure. I have testified in numerous cases in  
19   the United States in U.S. Federal Court. I believe the  
20   current count is 17 or 18 different cases in U.S.  
21   Federal Court. I have testified twice on -- in U.S.  
22   military tribunals in Guantanamo Bay. Actually, make  
23   that three times, excuse me. And I have also testified  
24   abroad in courts including the United Kingdom, Denmark,  
25   Bosnia-Herzegovina, Australia, in various different

1 terrorism cases in those jurisdictions on behalf of  
2 those governments.

3 Q. And you've been retained as an expert witness  
4 for the government in this case; is that correct?

5 A. That is correct, yes.

6 Q. And you are being paid \$300 an hour?

7 A. That's correct, yes.

8 Q. I'd like you to turn to the subject of  
9 Chechnya. Could you tell the jury a little bit about  
10 the background of the region, not extensively, but up  
11 through about the point where the Soviet Union fell.

12 A. Sure. Chechnya is a small republic that is  
13 considered to be inside of the Russian sphere of  
14 influence. It's a Muslim republic. So in contrast to  
15 the primarily Russian Orthodox religion that's spread  
16 through most of Russia, Chechnya is Muslim. And it has  
17 a history of resistance against the Soviets and against  
18 the Russians.

19 Beginning in approximately the 1930s, Stalin  
20 and other Russian leaders made vigorous efforts to try  
21 to make sure that Chechnya did not break off and  
22 separate. As a result, there were a series of  
23 rebellions that took place in Chechnya almost every year  
24 from the 1930s until 1950s where Chechen insurgents  
25 would attempt to launch rebellions against Russian

1 forces.

2 Following about the 1950s or '60s, the Russians  
3 more or less stamped out most of the resistance they  
4 were facing there. And Chechnya continued as part of  
5 the USSR. In 1991, the USSR fell apart, and Chechnya  
6 declared its independence.

7 Chechnya at that point was led by a former  
8 Russian Air Force officer named, Dudayev, Jokhar  
9 Dudayev.

10 Q. You better spell that for the court reporter.

11 A. Sure. It's spelled in a couple of different  
12 ways, but you can spell it J-O-K-H-A-R, Dudayev,  
13 D-U-D-A-Y-E-V.

14 Q. And can we see Exhibit EK-8, please. Do you  
15 see that on the screen, Mr. Kohlmann?

16 A. Yes, I can.

17 Q. Okay. Could you just explain for the jury  
18 where Chechnya is located, and a little bit about it on  
19 the map?

20 A. Of course. Chechnya, as you can see on this  
21 map, is a landlocked territory. It's squeezed between  
22 Dagestan to the east, to the north; and Ingushetiya to  
23 the west of Ossetia; and then you can see farther south  
24 is Azerbaijan, Georgia, and Armenia.

25 Q. If you actually touch the screen, I think --

1       A.       Sure. Of course. No problem. It's right  
2       there. Excuse me.

3               And you can see on the map at the right, you  
4       can see the topography, it's also a fairly mountainous  
5       place. It's a fairly rugged territory.

6       Q.       So it's really in the southern part of what we  
7       call Russia today?

8       A.       It is generally considered to be part of  
9       Russia's southern Muslim frontier, yes.

10      Q.       And it's also in an area of the world that's  
11      referred to as the Caucasus?

12      A.       That's correct. This area right here that's  
13      squeezed between the Caspian Sea and the Black Sea,  
14      right here, is generally described as the Caucasus.

15      Q.       Now, after the USSR fell, you indicated that  
16      this Soviet or Russian officer tried to lead  
17      independence. What happened?

18      A.       After Jokhar Dudayev declared independence and  
19      attempted to form an autonomous republic, the Russians  
20      decided that they couldn't allow that to happen. They  
21      decided that if that was going to happen, then other  
22      republics would break away, and the entire former USSR  
23      would fall apart.

24               As a result, the Russians invaded Chechnya with  
25      military force once again in an effort to put down the

1 rebellion. However, after approximately three years of  
2 fighting, some very intense fighting in which the  
3 capital of Chechnya, Grozny, was leveled to the ground,  
4 the Russians essentially decided that they weren't going  
5 to win. So they pulled a cease fire. They decided to  
6 agree to a cease fire, and they began withdrawing their  
7 forces out of Chechnya, allowing Jokhar Dudayev and his  
8 advisors to set up a semiautonomous republic.

9 Q. Now, what was the nature of this rebellion in  
10 the early 1990s?

11 A. Well, Chechnya has a history, its legacy is a  
12 Sufi Islam. There's a long history started by a  
13 historic figure named Imam Shamil, S-H-A-M-I-L, where  
14 resistance to the Russians was organized along the lines  
15 of Sufi Islam. Sufi is a particular sectarian aspect of  
16 Islamism. It's generally fairly moderate, really. And  
17 the idea was to organize the Chechens into an army to  
18 defend themselves and to establish their own independent  
19 presence.

20 But it was -- I should say, though, as much as  
21 it was organized along the lines of Sufi Islam, it was a  
22 fairly nationalistic struggle, particularly up until  
23 1995. Islam played a role but it was more of a  
24 spiritual role. It wasn't a primary role. The idea was  
25 to establish a Chechen nationalistic republic with a

1 secular leadership.

2 Q. Now, what happened after this cease fire took  
3 place?

4 A. After the cease fire took place, the Russians  
5 began withdrawing their troops, and the conflict  
6 attracted the attention of foreign extremists, of others  
7 outside of Chechnya who saw the conflict going on there  
8 and imagined that it could be restructured along the  
9 lines of a more religious-oriented conflict; in other  
10 words, abandoning the nationalist struggle and trying to  
11 emphasize or push the Chechens into adopting a more  
12 Islamic versus Christian struggle.

13 The primary progenitors of this strategy or  
14 this idea were foreign extremists who had come from the  
15 Arab Afghan movement, individuals who had traveled after  
16 Afghanistan to a variety of different conflicts in  
17 Central Asia with the idea of sponsoring jihad or holy  
18 war against the Russians in places like Tajikistan,  
19 Kyrgyzstan, Uzbekistan, and eventually Chechnya.

20 Q. Now, was there a particular Arab person who  
21 went into Chechnya and became the leader of that group?

22 A. Yes. In the spring of 1995, the first formal  
23 delegation of Arab Afghan commanders arrived in  
24 Chechnya, initially with the idea of just providing  
25 Chechens with religious training, with military

1 training, giving them the expertise in order to fight  
2 the Russians in their next encounter.

3 This delegation was led by a number of senior  
4 Arab Afghan commanders, but the most senior, the most  
5 famous, was a Saudi Arabian national whose real name is  
6 Samir al-Suwailem, S-A-M-I-R, A-L, dash,  
7 S-U-W-A-I-L-E-M, but Samir was better known by his  
8 kunya -- kunya is K-U-N-Y-A, which is like a pseudonym,  
9 combat pseudonym, and in Suwailem's case his combat  
10 pseudonym was Ibn-ul-Khattab, I-B-N, U-L, dash,  
11 K-H-A-T-T-A-B.

12 Q. Can we have Exhibit SW-45. And if you could  
13 take a look at this particular picture, Mr. Kohlmann, do  
14 you recognize the individuals in this picture?

15 A. Yes, I do.

16 Q. And if you could point them out for the jury,  
17 who are they?

18 A. Of course. At the left right here, this here  
19 is Samir al-Suwailem, otherwise known as Ibn ul-Khattab.

20 At the right, far right, right here, is one of  
21 the other senior Arab Afghan commanders, a Saudi  
22 national, who joined Ibn ul-Khattab in 1995 in Chechnya,  
23 his kunya, his combat pseudonym, was Abu Walid  
24 al-Ghamdi, G-H-A-M-D-I.

25 The person at the center here who was wearing

1 no hat and who is bald, this is Shamil Basayev,  
2 S-H-A-M-I-L, B-A-S-A-Y-E-V. Basayev is a native of the  
3 Caucasus. In contrast to the other two individuals on  
4 here, he actually is from the Caucasus region. However,  
5 Basayev boasted that he had participated in training in  
6 the late stages of the Arab Afghan war, and he had  
7 adopted the philosophy of violent jihad, of violent  
8 religious conflict against the Russians, in the same  
9 style as Ibn ul-Khattab and Abu Walid al-Ghamdi.

10 Q. Now, we've got a chart that the jury has seen,  
11 and I don't even have broken Arabic, so I refer to him  
12 as Ibn ul-Khattab.

13 A. Yeah.

14 Q. But what was his role in this group?

15 A. Ibn ul-Khattab was famous because of his  
16 exploits during the Soviet/Afghan war. In the late  
17 stages of the Soviet/Afghan in Afghanistan, he had  
18 fought in a place that was known as Massada,  
19 M-A-S-S-A-D-A, which was a mountaintop camp inside of  
20 Afghanistan where himself and a number of other senior  
21 Arab Afghan leaders, including Osama bin Laden, waged a  
22 rather desperate Alamo-style struggle against Russian  
23 paratroopers, Afghan Communist Army troops. And they  
24 had withstood a tremendous battery of bombs and missiles  
25 and everything else. Ibn ul-Khattab became famous



1 because of the fact that he was a legendary commander,  
2 he had legendary military skills. He was famed for his  
3 courage in battle. And as a result, he then decided  
4 that he wanted to take these lessons, and, again, export  
5 them elsewhere.

6 When he arrived in Chechnya, he immediately  
7 became the head, the senior commander, the commander in  
8 chief, of the foreign mujahideen in the Caucasus, which  
9 eventually became known as the Islamic Army of the  
10 Caucasus.

11 It was himself, along with Shamil Basayev, who  
12 were the two most senior leaders of this movement.  
13 After Ibn ul-Khattab's death, the other individual in  
14 this photo, Abu Walid al-Ghamdi, took over in that  
15 position.

16 THE COURT: Is this a good time for a break?

17 MR. GORDER: Yes, it is, Your Honor.

18 THE COURT: Recess until 1 o'clock, Jurors.

19 Thank you.

20 (Lunch recess at 12:04 p.m.)

21 (Further proceedings were had by Reporter  
22 Deborah Bonds, and are bound under separate cover.)

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## 1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter  
3 for the State of Oregon, do hereby certify that I was  
4 present at and reported in machine shorthand the oral  
5 proceedings had in the above-entitled matter. I hereby  
6 certify that the foregoing is a true and correct  
7 transcript, to the best of my skill and ability, dated  
8 this 1st day of September, 2010.

9  
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11  
12 /s/ Deborah Wilhelm

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14 Deborah Wilhelm, RPR  
15 Certified Shorthand Reporter  
16 Certificate No. 00-0363  
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